

1074
No. 2894

United States
Circuit Court of Appeals

For the Ninth Circuit. 1074

Transcript of Record.
(IN TWO VOLUMES.)

THE UNITED STATES OF AMERICA,
Appellant,

vs.

GRAND CANYON CATTLE COMPANY, a Corporation,

Appellee,

VOLUME II.
(Pages 321 to 567, Inclusive.)

Upon Appeal from the United States District Court for the District
of Arizona.

Filed

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F. D. Monkton,
Clerk.

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Upon Appeal from the United States District Court for the District
of Arizona.

(Testimony of E. J. Marshall.)

On cross-examination by Mr. Sheridan, the witness testified:

Before meeting Mr. Saunders in 1907 on the occasion when this matter of the transfer was started in Salt Lake City about the first of December, I had met Mr. Saunders before. I first met Mr. Saunders in the winter of 1906, or the early spring of 1907. I had no business transactions with him at that time and no discussion of those properties. My purpose in meeting Mr. Saunders at that time was to call on him and make his acquaintance inasmuch as I had bought three thousand head of steers from him the year previous and was in the market for a similar bunch the coming summer. The idea or suggestion concerning the acquisition of this Buckskin Mountain property occurred to me in this way: In feeding steers obtained from Mr. Saunders in 1906 we found the Bar Z brand predominated. The quality of these steers were good, and feeding operations convinced me [244] that the Utah cattle were the best cattle to feed. The result of the feeding was better than that of the native California or Arizona or New Mexico steers, because they were all heavier boned and a better quality generally. I was desirous of getting hold of a breeding range and I sought to learn who was the owner of the Bar Z brand of cattle. I learned that B. F. Saunders was the owner, but that the property was not for sale. I was in Salt Lake in the late winter of 1906 or spring of 1907 with a view to inquiring for such a property and I was directed to the Cleveland property. I

(Testimony of E. J. Marshall.)

went to look at a bunch of steers quite a distance west from Ogden on the Salt Lake. At a later date Mr. Saunders sent me word sometime in the spring of 1907 that he was sick, and believed he would be willing to sell what was known as the V. T. ranch, and out of that grew an arrangement for me to go and look at it as soon as the snow on Buckskin Mountain would permit.

I had learned prior to that time that Mr. Saunders' place was not for sale. I think Mr. Stevenson told me that, because he was the man whom we sent out to look for cattle and to inquire whether such a property could be procured. Mr. Stevenson had been associated with me for fifteen years as manager of my cattle interests. From the time we first came to California eleven years ago he has been my cattle manager, and I think it was he who brought my attention to the fact that the Saunders place was not for sale. When I found out it was for sale I don't recall whether Mr. Stevenson told me or whether Mr. Saunders wrote me a letter. I know I received letters from Mr. Saunders about that matter. Those letters are now in the vaults of the Grand Canyon Cattle Company. We corresponded on various subjects for three or four years, as I was buying cattle from him for three or four years.

I don't recall that I had any dealings through Mr. Stevenson or anybody else with Al Formasters concerning the purchase of the property. I don't recall transactions with a party of that name for the purchase of this property. [245]

(Testimony of E. J. Marshall.)

Q. Is it true that Mr. Stevenson, in all of these negotiations with Mr. Saunders was representing you as your manager?

Mr. STEVENS.—I object to that on the ground it is incompetent, irrelevant and immaterial and not proper cross-examination.

The COURT.—I sustain the objection on the ground it is not proper cross-examination.

Mr. SHERIDAN.—Note an exception.

The COURT.—The witness may answer under Rule 46.

(A. He was not.)

Mr. SHERIDAN.—We suppose, your Honor, that we may ask a few more questions.

The COURT.—Yes, they will be received under Equity Rule 46.

(The witness then testified under Equity Rule 46 as follows: Mr. Stevenson was acting for me in inspecting a bunch of cattle that I contemplated buying. I refer to the inspection of the cattle on the V. T. ranch, in June, 1907, and September, 1907, when in my company. Mr. Stevens took over no cattle from Saunders in October, 1907. He appeared as my representative or representative of the Grand Canyon Cattle Company in October, 1907, for the purpose of counting the cattle for the Grand Canyon Cattle Company. He had authority to count the cattle, to tally-brand them, and report to me the number tally-branded. Mr. Stevenson has been my manager for the past eleven years in California. On the occasion of these two trips in 1907, in my company to the Buck-

(Testimony of E. J. Marshall.)

skin Mountain ranch and on the occasion when Mr. Stevenson appeared at the Buckskin Mountain ranch to count cattle in 1907, he had no authority as a representative of the Grand Canyon Cattle Company, because it was not then organized, but he was representing me in other companies and I requested him to go and look at these cattle and pass upon their quality and the quality of the range and the condition of the water and advise me. On these occasions, and during the entire year of 1907 he was in my employ as my cattle manager.)

The above testimony was all objected to by Mr. Stevens, upon the ground it was incompetent and immaterial and not proper cross-examination. [246]

The objection sustained by the Court on the ground it was not proper cross-examination, and the Government, by its counsel, then and there excepted.

WITNESS.—(Continuing:) I sent Mr. Stevenson out to inspect one range during 1907, and that was the V. T. ranch. Before I sent him out to inspect the V. T. ranch I wouldn't say he was in Arizona or Utah making any similar investigations for me except in compliance with my general expressed wish that while he was after cattle he would keep a look-out for a good grazing range on which to feed cattle. If he found such a place he was not authorized to enter into any negotiations.

I arrived on the Buckskin Mountain some time in June, 1907, the first time, and met Mr. Dimmick there at Jacobs lake. On that occasion Mr. Dimmick accompanied me throughout that inspection.

(Testimony of E. J. Marshall.)

The places that I visited in his company were Jacobs lake, House Rock springs, One-mile springs, Two-mile springs, Jacobs pools, the corrals at the end of the pipe line to which water was conveyed to Jacobs Pools, Kane Bed springs, winter headquarters, South Canyon corral and reservoir and pipe line, V. T. Park, Bright Angel's camp, Three lakes—I believe that is all. Mr. Clark was also in that party throughout that inspection. Neither Mr. Clark nor Mr. Dimmick said anything to me about the manner in which those claims were held, nor did I ask them how they were held. Mr. Stevenson was with me on that occasion. He didn't inquire how these claims were held to my knowledge, and I didn't authorize him to make any such inquiries. I made no inquiry because I was inspecting a piece of property with a map in my possession on which are shown titled lands and lands located by scrip, with the information that these lands were owned by Mr. Saunders on which the water was secured. The balance was public domain constituting the winter range of the V. T. ranch. The summer range was the Forest Reserve that you only could operate upon under a lease permit from that department. Mr. Clark gave me the information that he was not cognizant of which of these tracts so marked on the map were patented mining claims or lands on which scrip was located, but he could assure me that all in House Rock Valley and [247] all at the foot of Vermillion Cliffs were either titled under patents or owned by Saunders with scrip locations. That was all he could tell me, the balance I could get from Mr. Saunders.

(Testimony of E. J. Marshall.)

Mr. Dimmick declined to give any information on the June trip. The map I had with me on that occasion is now in evidence here. I had no other map. I rested with the information that was conveyed to me by that map as to the manner in which these claims were held until December, when it was explained to me fully by Mr. Saunders at the time of the transfer, but before the execution of the deeds. He told me there were five patented mining claims, nine tracts in which scrip were located, various unpatented mining claims, and various water appropriations. I had full information that he was deeding me five mining claims, nine under scrip, various unpatented mining claims, and various water appropriations. Mr. Saunders stated to me on that occasion that there was water on the patented mineral claims. I would not have bought them unless I knew there was. He didn't tell me there was water on the unpatented claims in every instance, he told me all the patented claims there covered water or where they expected to get water. On that occasion he called my attention to the unpatented mineral claims and it was my understanding that they had water within their boundaries. As a matter of fact I absolutely would not have bought them if they didn't have water on them. In that conversation Mr. Saunders enumerated the unpatented and scrip locations as well as the patented. I knew the enumeration when the papers were being prepared. When I came down to the Buckskin Mountain ranch first Mr. Clark met me at Lund. Mr. Stevenson had arranged for that with Mr. Clark. The only thing

(Testimony of E. J. Marshall.)

Mr. Saunders had to do with it was the general understanding either through correspondence with me or probably with Mr. Stevenson, that Mr. Clark would be the man to represent Mr. Saunders whenever we could arrange to inspect the property.

Mr. Saunders didn't inform me of Mr. Dimmick's presence on the ranch. I didn't know that I heard Dimmick's name until I reached the ranch and I was introduced to Mr. Dimmick by Mr. Clark, and his capacity as superintendent of the V. T. Park ranch was disclosed to me. [248]

Mr. Stevenson appeared at the V. T. ranch in October, 1907, to count the cattle. He was accompanied by other persons representing me at that time. Mr. Tehbo, who had been taken from the Chino ranch, and Mr. Allen Phoenix, who had been taken from Jesus Maria ranch. They were there to assist Mr. Stevenson in any way and Mr. Stevenson was in charge of that party of three. I don't know whether Mr. Tehbo kept any books or records of the counting of the cattle. However, he was there to assist Mr. Stevenson in any way that he might require. Mr. Phoenix was at that time in my employ on the Jesus Maria property and Mr. Tehbo was a tenant on the Chino ranch. Mr. Tehbo was there under employment by me, but I don't recall how he was paid.

Mr. Stevenson was with me on the second trip which I made for the Buckskin Mountain ranch in 1907, early in September. He was there for the purpose of arranging for the construction of corrals, and seeing that chutes were built in order to make

(Testimony of E. J. Marshall.)

the count later in the year in compliance with the July 30th contract.

The map which has been offered as Defendant's Exhibit "A" is the map I had before me when I made my first inspection. I think that map was produced by Mr. Clark on the trip and left with me. As I believe I have already stated it was made clear to me that the water in House Rock Valley known as the One-mile and Two-mile and House Rock springs and the water at the foot of the Vermillion Cliffs in the vicinity of Jacobs pool was all on either patented mineral claims or lands on which scrip was located. That was explained to me at that time by Mr. Clark and Mr. Dimmick made no explanation of any sort about this matter.

On the occasion of the second trip Mr. Dimmick was with me so little of the time that our conversation was more of a camp-fire conversation at night. I was not with him at all during the daytime. He and Mr. Stevenson rode horseback and I took care of my guests. On this second trip Mr. Stevenson and Mr. Dimmick were looking after the building of these cattle chutes and corrals and making locations for the construction of cattle chutes to aid the branding. [249]

Mr. Dimmick was employed by me on the 5th day of December, 1907. There was no definite understanding between me and Mr. Dimmick before that as to his employment.

The paragraph of Defendant's Exhibit "B," on page eight, where it reads "It is mutually understood that all expenses arising out of the manage-

(Testimony of E. J. Marshall.)

ment” and ending with the words, “the conduct thereof,” related to the contract being carried out literally. In other words, that the cattle would be all counted and tally-branded and we would be able to appear in the City of Salt Lake with a known count and be able to close the transaction on November first.

On account of a severe snowstorm which stopped the tally-branding at 7083 head, and on account of the panic, which caused me to go to Texas, we could not get to Salt Lake until later, and we did reach there and closed this transaction on the 4th or 5th of December. And in closing the transaction this portion of this contract was not literally adhered to, in as much as there was a waiver on the part of Mr. Saunders to take an additional year in which to gather unbranded cattle, and he elected to take our proposition of ten thousand head, and one hundred and seventy-six horses, but my judgment is that all our expenses started on December first, but I am little inclined to believe that possibly a few men on the ranch were paid for November, because I see my notations on the December pay-roll that some man was paid for November. My judgment is that we took charge of the ranch from the first day of December, and assumed expenses only from that time. In all probability we charged Mr. Saunders with the salaries of those men who worked during the month of November. I think I can be reasonably positive that we did not pay all the expenses for the V. T. ranch for the month of November. I can say positively that Mr. Dimmick received \$175 as his salary

(Testimony of E. J. Marshall.)

for the month of December, and none before that.

For me to arrive at the final estimate agreed upon of ten thousand head of cattle I should have to rely entirely and exclusively upon the judgment of Mr. Stevenson, and the proposition was made to us first [250] to accept eleven thousand seventy-three. After a great deal of argument, we decided on making a proposition, on my consulting with Mr. Stevenson, of ten thousand head of cattle and horses. We hung on that for a couple of hours in the middle of the night. Mr. Dimmick and Mr. Clark, and Mr. Saunders were the three men consulted as to what they should accept, and Mr. Stevenson and I as to what we should feel safe in proposing. They finally looked on the ten thousand head, but they were insisting on one hundred seventy-six head of horses in addition, which we finally conceded.

There were Mr. Dimmick, Mr. Clark and Mr. Saunders representing Mr. Saunders' interests and Mr. Stevenson and myself representing my interests, and it was, as a final result of that conversation, that the ten thousand head were agreed upon.

The price agreed upon about the ranch was fifty thousand dollars for what is known as the plant, and sixteen dollars a head for cattle, and I think twenty dollars a head for the horses. The plant consists of all the land owned, scrip, lands, water appropriations, pipe-lines, troughs, corrals, buildings, wagons, supplies, harness, saddles, and everything that went to make up the equipment, and everything that in any way pertains to what is known as the V. T. ranch. That went in as the plant for the sum of

(Testimony of E. J. Marshall.)

fifty thousand dollars; that included all cabins, structures or houses that were located on owned property, or whatever Saunders' rights were to property on the Forest Reserve. In other words, my understanding was that it included any property that Mr. Saunders claimed through either legal or equitable right or through possession.

When the character of these four mineral claims now in suit were brought to my attention it didn't in the least excite my interests in any way as to an inspection of these claims. I made this inquiry of my attorney, "Do I understand that patented mining claims are to be considered as good as United States patents, covering homestead land or desert claim land—in other words, are all United States patents on land of a similar character?" His answer was "Yes."

I don't know that my attorney had made any visit to inspect these claims. I knew of no facts to lay before him except that these lands were [251] pointed out to me as United States patented mining claims. I didn't inform my attorney as to the improvements upon them, stock corrals, houses, etc., around Jacobs lake. I think the opinion he gave me was only an oral one. I don't think I have a written opinion. The opinion to which I refer is the answer he gave me to the question I have just stated.

When the deeds were prepared for signature on these contracts I read them over in every instance before I signed them. The papers were all drawn in my presence. I cannot say whose was the first signature. We signed practically simultaneously.

(Testimony of E. J. Marshall.)

We were all in the room, and as the final copy was prepared we signed them. I read them over as I read every paper that I sign, and my recollection is that Mr. Saunders read them over.

I don't know who the first officers of the Grand Canyon Cattle Company were on and after October 4th, 1907. I was not a member at the time of this incorporation. I became a member on the 29th day of November, 1907. We took all these steps in compliance with the contract with Mr. Saunders of July 30th, looking to the taking the titles to the properties when I received them. I received the properties on the 5th day of December, 1907, as president of the Grand Canyon Cattle Company. I became president on the 29th day of November, 1907.

The stockholders of the corporation at the time I became president were E. T. Earl, John S. Cravens, J. S. Torrance, Isaac Millbank, the Chino Land and Water Company, and E. J. Marshall. They were all the stockholders. The officers on October 29th were E. J. Marshall, President, and either J. S. Torrance or J. S. Cravens, vice-president, and Robert Boltman, Secretary. That is the same Robert Boltman who signed Defendant's Exhibit "E."

Prior to that date I know that the legal firm of O'Melveney, Stevens and Millikin, who have been my attorneys for many years were asked to organize such a company and have it ready at a certain date. The organizers, I assume, were made up of men in their office. I don't know who the men were. I do know that Mr. Henry Stevens was president of the company. Mr. E. E. Millikin is a member of the

(Testimony of E. J. Marshall.)

same firm, and Mr. William S. White was a junior in that law firm, and Mr. Joseph P. Loeb and Mr. Edwin J. Loeb were young men [252] in the office. The stockholders at that time were only what the law required, possibly one share each.

I don't recall on the occasion of this conference at Salt Lake City where Mr. Saunders, Mr. Clark, Mr. Dimmick, myself and Mr. Stevenson participated, any particular mention being made as to what is known as the Kane lode. It was enumerated among all the others in the discussion. It was not brought to my attention at that time that there were any investigations or proceedings concerning that by the Government.

At the time I became president of the Grand Canyon Cattle Company I owned in my own name one share of stock. As a matter of fact I own twenty per cent of the stock of the Grand Canyon Cattle Company.

I have testified that Mr. Dimmick was taken into my employ at the time of this transfer, on December 5th, 1907. He entered our service in the capacity of superintendent of the V. T. ranch, and that also included at that time the Kane Beds ranch. He remained in our service until, I think, December 31st, 1910. He was discharged for insubordination. He was first instructed that my policy in handling ranch superintendents was that they were only permitted to sign pay checks that stated on the face of the check that it was in payment of a stated number of days' labor at a stated price per day. The next particular case that was made to cover was the payment of

(Testimony of E. J. Marshall.)

freight money, the advance to freighters, and that all bills for the purchase of supplies, flour, salt, barbed wire, etc., must first be O. K.'d by him and sent to Los Angeles, to be paid for in the regular way on the regular paper. He carried that plan out for the first month or so and then he made an exception, and paid a few bills direct. It was then that he was written to pretty strongly that it was a violation of his authority, and that he must adhere to his prescribed duties, but he kept violating them, and I wrote him a rather strong letter and he wrote back, that he thought it was asking too much for merchants to wait for payment if the bills were to come to him and then go to Los Angeles, requiring sometimes sixty days in the winter-time for any response. And I wrote that was a question for my office to determine, and not a question for him to violate the rule. I never got that completely straightened out. The next insubordination was the result of my requiring [253] that any improvements done on the V. T. ranch must first be submitted to me in writing, and a definite approval and appropriation made for the work before any work could be done. Certain improvements were taken up with the Forestry Department regarding improvements on the Forest Reserves, and I would approve certain work and make an appropriation during the particular year. In many instances, he expended more, twice as much as I had allotted to the expense. That resulted in one or two very severe letters, and he wrote back that he thought he was the best judge, that he was on the ground, that I was not, that he thought the money

(Testimony of E. J. Marshall.)

had better be expended. The climax came in the year in 1910, when we had two thousand head of cattle at Kane Beds because of the fear of a hard winter as a result of a drouth summer, and Mr. Stevenson sent a special messenger; he was delayed—and it was late, and he decided to bring those two thousand head out—he sent a messenger with a letter to Mr. Dimmick, asking him to furnish this messenger with horses if it took every horse the Grand Canyon Cattle Company owned. Dimmick gave him no horses and sent in word that as long as he was superintendent of the V. T. ranch he would never permit a ranch horse to go on the trail. Well, when Mr. Stevenson returned to Los Angeles, he reported to me, and I told him to look up a new superintendent, and we found our present one, Mr. Mansfield, and Mr. Dimmick was released, to date from December 31st.

I mentioned a Mr. Isaac Millbank as one of the stockholders of the Grand Canyon Cattle Company. He was the same Isaac Millbank that accompanied me on the 1907 trip. He was a director of the company on the 29th day of November, 1907, elected from that date.

On November 29th, 1907, Isaac Millbank, J. S. Torrance, J. S. Cravens, E. T. Earl, and E. J. Marshall were elected directors to take the place of the directors who had been in office since the organization. A corporation named the Chino Land & Water Company was also a stockholder. That was one of my interests. [254]

(Testimony of E. J. Marshall.)

On redirect examination by Mr. Stevenson the witness testified:

I *spoke about* twenty-five hundred head of cattle being taken out of the ranch of Mr. Saunders in 1907. That had nothing to do with the sale of the ranch, these cattle did not come from the ranch. I had about twenty-five hundred or three thousand head to feed in 1906, and I bought another twenty-five hundred in 1907 for November delivery. There were no cattle delivered to the Grand Canyon Cattle Company under this sale until after December 5th.

The payment of expenses from December first was just inserted for the purpose of getting some date when we should begin paying expenses. We took possession on December 5th, after the papers were signed.

In stating that I would not have bought any of these claims unless they had water on them I refer to those patented claims and located scrip land. The unpatented claims were on the Forest Reserve as I understood then and I have since learned definitely. It never occurred to me, however, knowing the property, that it was of very much moment whether we owned or didn't own anything on the Forest Reserve, inasmuch as we already owned lands from which we obtained our water. As we had an expensive pipe-line system and that water and the pipe-line system enabled us to maintain from eight to ten thousand head of cattle. Unless we had grazing permits from the United States Forestry Bureau we couldn't have any rights on the Forest Reserve whether we owned them or not, and for that reason

(Testimony of E. J. Marshall.)

I never attached much importance to the unpatented claims or ownership of anything on the Forest Reserve. Whatever we wanted we applied for and obtained special-use permits. That is the condition of affairs to-day and that is the law as I understand it, and those adjacent to the Forest Reserve have the first call on grazing of Forest Reserve tracts.

I never stated anything about Mr. Saunders retaining an interest to Mr. Barney, the driver. Mr. Barney was a horse handler and I had no conversation with him whatever. [255]

On cross-examination the witness testified:

(Counsel handed two-page letter to witness.) I recognize that letter.

Mr. SHERIDAN.—We offer in evidence this portion of the letter as Government's Exhibit 57, "In substantiation of this statement we beg to state that under the terms of our purchase from B. F. Saunders we received and tally-branded eight thousand and seventy-three head of cattle up to November 1st, 1907." That is all we desire to be admitted.

The COURT.—That portion of the letter may be admitted, it being signed by Mr. Marshall as president of the Grand Canyon Cattle Company.

Letter introduced in evidence and marked "Government's Exhibit No. 57."

WITNESS.—(Continuing:) I stated I was not interested in unpatented mineral claims by reason of the fact that all use of any portion of the Forest Reserve was only at the pleasure of the Government, and that therefore the question of ownership on the

(Testimony of E. J. Marshall.)

Government Forest Reserve always occurred to me as a matter of rather limited importance. Everything that Mr. Saunders had or owned or had to do with his plant, the V. T. ranch, he must convey, and we assume he did convey.

Mr. SHERIDAN.—In view of the evidence that has been introduced we ask the Court to reverse its ruling excluding the conversation had between Mr. Harris and Mr. Stevenson at the V. T. Park, between the 18th and 23d day of October, 1907.

The COURT.—I adhere to my former ruling and sustain the objection.

Mr. SHERIDAN.—To which we note an exception.

The Chino ranch, the Jesus Maria ranch and the Palomas ranch are all owned by corporations. When I have spoken of doing certain things in the cattle business I am referring to the companies, not to what I myself have done. I have done very little individually. [256]

**Government's Exhibit No. 2—Application for Patent
for the Sunset Mill Site and Sunset Lode Mining
Claim.**

CERTIFICATE.

Copies of Papers Relating to Patent Proceedings
for the Sunset Millsite and Sunset Lode.

APPLICATION FOR PATENT.

Territory of Arizona,
County of Yavapai,—ss.

**APPLICATION FOR PATENT FOR THE
“SUNSET” MILL SITE AND “SUNSET”
LODE MINING CLAIM.**

To the Register and Receiver of the U. S. Land
Office, at Prescott, Territory of Arizona:

John M. Ross, whose postoffice address is Prescott, Arizona, attorney in fact for B. F. Saunders, of Salt Lake City, Utah, being duly sworn, according to law, deposes and says: That in virtue of a compliance with the mining rules, regulations and customs, by the said B. F. Saunders, claimant, who is applicant for patent herein, has become the owner of, and is in the actual, quiet and undisturbed possession of 1175 linear feet of the vein, lode or mineral deposit, Survey 2118-A, together with surface ground 555 feet in width, for the convenient working thereof, also, “Sunset” mill site, Sur. No. 2118-B, as allowed by local rules and customs of miners and the laws of the United States and the laws of the Territory of Arizona, said mineral claim, vein, lode or deposit and surface ground being situated in the Warm Springs Mining District, County of Coconino, Terri-

tory of Arizona, and being more particularly set forth and described in the official field-notes of survey thereof, hereto attached, dated the 30th day of August, 1905, and in the official plat of said survey, now posted conspicuously upon said Mining Claim or premises, a copy of which is filed herewith.

Deponent further states that the facts relative to the right of possession of said claimant to said Mining Claim, vein, lode or deposit, and surface ground, so surveyed and platted, are [257] substantially as follows, to wit:

By location, as is shown by the location notices herewith filed, no transfers of said lode and mill site having ever been made. Which will more fully appear by reference to the copy of the original record of location heretofore furnished, and the abstract of title hereto attached and made a part of this affidavit; the value of the labor done and the improvements made upon said claim, by himself and his grantors, being equal to the sum of eight hundred and fifty (\$850) dollars, and said improvements consist of 1 tunnel 4x6x90 ft.

In consideration of which facts, and in conformity with the provisions of Chapter Six, of Title XXXII, of the Revised Statutes of the United States, and under application is hereby made for and in behalf of said B. F. Saunders for a patent from the Government of the United States for the said "Sunset" mill site and "Sunset" Mining Claim, vein, lode, deposit and the surface ground so officially surveyed and platted.

JOHN M. ROSS,

Attorney in Fact for B. F. Saunders.

Subscribed and sworn to before me this 20th day of September, A. D. 1905, and I hereby certify that I consider the above deponent credible and reliable person, and that the foregoing affidavit, to which was attached the field-notes of survey of the "Sunset" mill site and "Sunset" Mining Claim, was read and examined by him before his signature was affixed thereto and the oath made by him.

FEN S. HILDRETH,

Register.

[Endorsed]: Filed in Local Land Office, Sept. 20, 1905. Received at General Land Office January 2, 1906. [258]

Field-notes of Survey by John T. Breckon, United States Deputy Mineral Surveyor, under instructions dated June 20th, 1905. The Survey commenced June 29th, 1905. Completed June 30th, 1905. Mineral Survey No. 2118-A and B.

Here follows field-notes of the Survey of Sunset lode and Sunset mill site, showing courses and distances as set forth in the patent, and showing area of Sunset lode to be 14,632 acres, and showing area of Sunset millsite to be 4.976 acres.

LOCATION.

This claim is located on unsurveyed ground. It would be located approximately in T. 38 N. R. 5 E., of the Gila and Salt River Meridian, if the present surveys were extended. There are no known adjoining claims.

EXPENDITURE OF FIVE HUNDRED DOLLARS.

I certify that the value of the labor and improve-

ments upon this claim placed thereon by the claimant and his grantors, is not less than Five Hundred Dollars, and that said improvements consist of:

No. 1, A tunnel 4x6x90 ft. long, in rock, the mouth of which brs. S. 80° W. 25 ft. from the discovery of the Sunset lode and runs N. 18° E. to face.

Value, \$850.

An open cut 6 ft. deep, 10 ft. wide and 50 ft. long in earth and loose rock, the mouth of which brs. N. 3° 30' W. 300 ft. from the corner No. 1, of the Sunset millsite, and runs N. 60° E. to face.

Value, \$150. [259]

FINAL OATHS FOR SURVEYS.

(List of names of individuals employed by John T. Breckon, United States Deputy Mineral Surveyor, showing that Charles Dimmick was employed as chainman and H. B. Young as ex-man.)

FINAL OATHS OF ASSISTANTS.

(Affidavit of Charles Dimmick and H. B. Young that they assisted in making survey.)

FINAL OATH OF UNITED STATES DEPUTY MINERAL SURVEYOR.

I, John T. Breckon, U. S. Deputy Mineral Surveyor, do solemnly swear that, in pursuance of instructions received from the United States surveyor-general for Arizona Territory, dated June 20th, 1905, I have, in strict conformity to the laws of the United States, the official regulations and instructions thereunder, and the instructions of said surveyor-general, faithfully and correctly executed the survey of the Mining Claim of B. F. Saunders, known as the Sun-

set lode and Sunset mill site, situate in — Mining District, Coconino County, Arizona Territory, in Section approx. Township No. 38 N., Range No. 5 E. unsurveyed and designated as Survey No. 2118-A & B, as represented in the foregoing field-notes, which accurately show the boundaries of said mining claim as distinctly marked by monuments on the ground, and described in the attached copy of the location certificate, which was received by me from the surveyor-general with said instructions, and that all the corners of said survey have been established and perpetuated in strict accordance with the law, official regulations and instructions thereunder; and I do further solemnly swear that the foregoing are the true and original field-notes of said survey and my report therein, and that the labor expended and improvements made upon said mining claim by claimant or his grantors are as therein fully stated, and that the character, extent, location and itemized value thereof are specified therein with particularity and full detail, and that no portion of said labor or improvements so credited to this claim [260] has been included in the estimate of expenditures upon any other claim.

JOHN T. BRECKON,
U. S. Deputy Mineral Surveyor.

Subscribed and sworn to by the said John T. Breckon, U. S. Deputy Mineral Surveyor, before me a notary public, this 26th day of July, 1905.

[Seal]

ROBT. E. ROSE,
Notary Public.

My commission expires March 18, 1908.

AFFIDAVIT OF FIVE HUNDRED DOLLARS
IMPROVEMENT.

We, Chas. Dimmick and H. B. Young, of lawful age, being first duly sworn according to law, depose and say: That we are acquainted with the Sunset lode & Sunset millsite mining claim, situate in Warm Springs mining district, Coconino County, Arizona Territory, for which B. F. Saunders, has made application for survey prior to application for patent under the provisions of the Act of Congress approved May 10, 1872; and that the labor done and improvements made thereon by the applicant and his grantors exceed five hundred dollars in value, and further that we are not personally interested in said mine.

CHAS. DIMMICK.

H. B. YOUNG.

State of Utah,
County of Kane,—ss.

Sworn to and subscribed before me this 21st day of
July, 1905.

[Seal]

JOHN F. BROWN,

Notary Public, Kane Co., Utah. [261]

NOTICE OF LOCATION.

Notice is hereby given, that the undersigned, having complied with the requirements of Section 2324 of the Revised Statutes of the United States, and the local laws, customs and regulations of this district, has located twelve hundred feet in length by 600 feet in width, on this, the Sunset Lode, vein or deposit, bearing gold, silver, copper, lead and other valuable minerals, situated in House Rock Valley about 1 mile east of Jacobs Pools Spring, in the Warm Spring

Mining District, Coconino County, Territory of Arizona, and location being described and marked on the ground as follows, to wit:

Beginning 620 feet north of this location (Discovery) monument at the north and center monument, and running thence westerly 300 feet to N. W. corner monument No. 1, thence southerly 1200 feet to S. W. corner monument No. 2, thence easterly 600 feet to S. E. corner monument No. 3, thence northerly 1200 feet to N. E. corner monument No. 4, thence westerly 300 feet to place of beginning, including all dips, spurs, angles and variations, from the discovery the lode line runs northerly 620 ft. and southerly 580 ft.

The above-described mining claim shall be known as the Sunset lode.

Located this 15th day of February, 1904.

Names of Locators:

B. F. SAUNDERS.

Recorder at request of B. F. Saunders, March 1st, A. D. 1904, at 9 o'clock A. M., in Book 5, page 360.

Records of Coconino County, Arizona.

[Seal]

H. C. HIBBEN,

County Recorder. [262]

SUNSET MILL SITE.

To whom these presents may concern:

Know ye, that I, B. F. Saunders, declare and publish as a legal notice to all the world, that I have a valid right *right* to the occupation, possession and enjoyment of all and singular that tract or parcel of land not exceeding five acres, situate, lying and being in Warm Springs Mining District, Coconino County,

Territory of Arizona, bounded and described as follows: Beginning at corner No. 1, which brs. N. 57° 20' W. 2230 feet from the N. W. corner of the "Sunset lode" mining claim, thence running N. 24° E. 510 ft. to corner of No. 2, thence N. 66° W. 425 ft. to corner No. 3, thence S. 24° W. 510 ft to corner No. 4, thence S. 66° E. 425 ft. to corner No. 1, the place of beginning, containing an area of 4.976 acres, together with all and singular the hereditaments and appurtenances thereto belonging or in anywise appertaining and shall be known as "Sunset Mill site."

Located this 15th day of February, 1904.

B. F. SAUNDERS.

Recorded at the request of B. F. Saunders, March 1st, 1904, at 9 o'clock A. M.

H. C. HIBBEN,
County Recorder.

**SURVEYOR-GENERAL'S CERTIFICATE OF
APPROVAL OF FIELD-NOTES AND SUR-
VEY OF MINING CLAIM.**

Department of the Interior,
Office of U. S. Surveyor-General,
Phoenix, Arizona, Aug. 30, 1905.

I, U. S. Surveyor-General for the district of Arizona, do hereby certify that the foregoing and hereto attached Field-Notes and Return of the Survey of the Mining Claim of B. F. Saunders, known as the Sunset lode and Sunset mill site situate in Warm Springs, Mining District, Coconino County, Township No. 38 N., Range No. 5 E. unsurveyed, Arizona Territory, in Section [263] approx.,

designated as Survey No. 2118 A. & B, executed by John T. Breckon, U. S. Deputy Mineral Surveyor, June 29-30, 1905, under my instructions dated June 20, 1905, have been critically examined and the necessary corrections and explanations made, and the said field-notes and return, and the survey they describe, are hereby approved. A true copy of the location certificate filed by the applicant for survey is included in the field-notes.

(Signed) FRANK S. INGALLS,
U. S. Surveyor-General for Arizona.

U. S. SURVEYOR-GENERAL'S FINAL CER-
TIFICATE ON FIELD-NOTES.

Department of the Interior,
Office of U. S. Surveyor-General,

Phoenix, Arizona, Aug. 30, 1905.

I, U. S. Surveyor-General for the district of Arizona, do hereby certify that the foregoing transcript of the Field-Notes, return and approval of the survey of the mining claim of B. F. Saunders, known as the Sunset lode and Sunset mill site, situate in Warm Springs Mining District, Coconino County, Arizona Territory, in Section approx. Township No. 38 N., Range No. 5 E, unsurveyed, and designated as survey No. 2118 A. & B, has been correctly copied from the originals on file in this office; that said Field-Notes furnish such an accurate description of said mining claim as will, if incorporated into a patent, serve fully to identify the premises, and that such reference is made therein to natural objects or per-

manent monuments as will perpetuate and fix the locus thereof.

And I further certify that five hundred dollars' worth of labor has been expended or improvements made upon said mining claim by claimant or his grantors, and that said improvements consist of 1 tunnel 4 x 6 x 90 ft., value \$850.00, and that no portion [264] of said labor or improvements has been included in the estimate of expenditures upon any other claim.

I further certify that the plat thereof, filed in the U. S. Land Office at Prescott, Arizona, is correct and in conformity with the foregoing field-notes.

FRANK S. INGALLS,

United States Surveyor-General for Arizona.

(Endorsement on back showing field-notes received at General Land Office January 2, 1906.)

ABSTRACT OF TITLE.

(Contains copies of location notices of Sunset Lode and Sunset Mill site, duly certified by the County Recorder of Coconino County, of Arizona, and certificate of the clerk of the district court showing no judgments or suits pending.)

AFFIDAVIT OF CITIZENSHIP.

(Affidavit of B. F. Saunders made September 26th, 1905, before James H. Ball, notary public, Salt Lake County, Utah, stating that Saunders was a native born citizen of the United States, born at Albany, County of Gentry, State of Missouri, in the year 1847.)

POWER OF ATTORNEY.

(Made by B. F. Saunders, May 15th, 1905, appoint-

ing John J. Hawkins, and John M. Ross, or either of them, attorneys in fact to make application for patent and take necessary proceedings therefor.) [265]

PROOF OF MILL SITE.

(Affidavit of B. F. Saunders, Chas. Dimmick and C. D. Crosbie, made November 11, 1905, before Soren C. Jensen, notary public, Coconino County, Arizona, stating that they were citizens of the United States, and that the ground embraced within the Sunset mill site survey, No. 2118-B, is used or occupied by the claimant Saunders for mining purposes, to wit: "The storing of ore from the "Sunset" lode for milling purposes.")

PROOF OF POSTING NOTICES AND DIAGRAM OF CLAIM.

(Affidavit of Charles Dimmick and George Voice that they posted a copy of the application for patent, copy of which is set forth, in a conspicuous place upon the Sunset lode mining claim.)

CERTIFICATE THAT THE NOTICE REMAINED POSTED SIXTY DAYS.

(Certificate of Milton R. Moore, Register United States Land Office at Phoenix, Arizona, dated December 21, 1905, that notice of application for patent for the Sunset lode and Sunset mill site remained posted in the land office from September 20, 1905, until December 21, 1905.)

PROOF THAT PLAT AND NOTICE REMAINED POSTED ON CLAIM DURING TIME OF PUBLICATION.

(Affidavit of John J. Hawkins, made December 11,

1905, before John M. Ross, notary public, Yavapai County, Arizona, that notice of application for patent and plat remained posted on the claim for sixty days.) [266]

PROOF OF PUBLICATION.

(Affidavit of C. A. Neal, editor and publisher of the "Williams News," a weekly newspaper published at Williams, Coconino County, Arizona, that he will hold B. F. Saunders alone responsible for publishing notice, and no claim should be made against the United States.)

UNITED STATES LAND OFFICE.

In the Matter of Application for Patent for "Sunset" mill site, Survey No. 2118-B, B. F. Saunders, Claimant.

NONMINERAL AFFIDAVIT.

Territory of Arizona,
County of Coconino,—ss.

Chas. Dimmick and C. D. Crosbie, each of lawful age and residents of Houserock, in said County, being first duly sworn, each for himself and not one for the other, saith:

That he is a citizen of the United States; that he is well acquainted with the "Sunset" mill site claim of B. F. Saunders, situate in Warm Springs mining district, in said county, upon which said B. F. Saunders has applied for patent of the United States, and knows the character of said described land, having frequently been actually upon the same; that his knowledge of the land is such as to enable him to testify understandingly with regard thereto; that there

is not to his knowledge within the limits thereof, any vein or lode of quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin or copper, or any placer, cement, or other valuable mineral deposits, or any deposit of coal; that the land contains no salt spring, or deposits of salt in any form sufficient to render it chiefly valuable therefor; that no portion of said land is claimed for mining purposes under the local customs or [267] rules of miners or otherwise; that no portion of said land is worked for minerals during any part of the year by any person or persons; that said land is essentially nonmineral land, and that he has no interest whatever in said claim, or in said application for patent.

CHAS. DIMMICK,

C. D. CROSBIE.

Subscribed and sworn to before me, this 23 day of November, A. D. 1905, and I hereby certify that the foregoing affidavit was read to the above-named Chas. Dimmick and C. D. Crosbie previous to their names being subscribed thereto, and that deponents are reputable persons, to whom full faith and credit should be given.

SOREN C. JENSEN,

Notary public.

My commission expires May 1, 1905.

APPLICATION TO PURCHASE.

(Application of B. F. Saunders by John J. Hawkins, his attorney in fact to purchase lands embraced within the Sunset lode and Sunset mill site, approximately in Township 38 north, Range 5 east G. & S. R. meridian, and known as Survey No. 2118-A and

2118-B, agreement to pay therefor the sum of one hundred dollars.

CERTIFICATE OF REGISTER OF LAND
OFFICE.

that land is subject to entry, the legal price thereof is one hundred dollars.)

STATEMENT OF FEES AND CHARGES.

(Affidavit of John J. Hawkins, attorney in fact for B. F. Saunders, setting forth statement of expenditures and charges in connection with the patenting of Sunset lode and Sunset mill site.) [268]

RECEIVER'S RECEIPT.

(Receipt by J. M. W. Moore, Receiver of United States Land Office, of the sum of ten dollars on making application for patent.)

RECEIVER'S RECEIPT.

(Duplicate to be given the Purchaser.)

Mineral Entry No. 93,

Lot No. 2118-A. & B.

United States Land Office at Phoenix, Arizona,

December 21, 1905.

Received from B. F. Saunders, by John J. Hawkins attorney in fact, the sum of One hundred dollars, the same being payment in full for the area embraced in that mining claim known as the Sunset lode and Sunset mill site, in Township No. 38, N. of Range No. 5 E. meridian, designated as Lot — No. 2118-A & B, said lot — No. 2118-A & B extending 1175 feet in length along said *Sunste* Sunset vein or lode, expressly excepting and excluding from this sale and entry all that portion of the ground embraced in min-

ing claim or Survey designated as Lot — No. —. And also all that portion of any vein or lode the top or apex of which lies inside of said excluded ground; said lode mining claim as entered embracing 14.632 acres and said mill site claim 4.976 acres, in the Warm Springs Mining District, in the County of Coconino and Territory of Arizona, as shown by the survey thereof.

FEN S. HILDRETH,
Receiver.

December 21, 1905. [269]

REGISTER'S FINAL CERTIFICATE OF
ENTRY.

Department of the Interior, United States Land Office,
at Phoenix, Arizona.

December 21, 1905.

Mineral Entry No. 93,
Lot No. 2118-A & B.

It is hereby certified that in pursuance of the provisions of the Revised Statutes of the United States, Chapter VI, Title XXXII, and legislation supplemental thereto B. F. Saunders, by John J. Hawkins, attorney in fact, whose postoffice address is Prescott, Arizona, on this day purchased that mining claim known as the Sunset lode and Sunset mill site, situated on unsurveyed land, and approximately in Section —, in Township No. 38 north of Range No. 5 E., G. & S. R. B & meridan, designated as Survey No. 2118-A & B, said Sur. No. 2118-A & B, extending eleven hundred and seventy-five feet in length along said Sunset vein or lode, expressly excepting and excluding from said purchase all that portion

of the ground embraced in mining claim or survey designated as Lot — No. — and also all that portion of any vein or lode the top or apex of which lies inside of said excluded ground; said lode mining claim, as entered, embracing 14.632 acres, and said mill site claim 4.976 acres in the Warm Springs mining district, in the County of Coconino and Territory of Arizona, as shown by the plat and field-notes of survey thereof, for which the said party first above named this day made payment to the receiver in full, amounting to the sum of one hundred (\$100) dollars.

NOW, THEREFORE, be it known that upon the presentation of this certificate to the commissioner of the General Land Office, together with the plat and field-notes of survey of said claim and the proofs required by law, a patent shall issue thereupon to the said B. F. Saunders if all be found regular.

MILTON R. MOORE,
Register. [270]

PATENT.

General Land Office,	Mineral Certificate,
No. 44023.	No. 93.

The United States of America, To all to whom these
Presents shall come,
Greeting:

WHEREAS, In pursuance of the provisions of the Revised Statutes of the United States, Chapter Six, Title Thirty-two and legislation supplemental thereto, there have been deposited in the General Land Office of the United States the plat and field-notes of survey and the Certificate No. 93 of the

register of the Land Office at Phoenix, in the Territory of Arizona, accompanied by other evidence whereby it appears that B. F. Saunders did, on the twenty-first day of December, A. D. 1905, duly enter and pay for that certain mining claim or premises, known as the Sunset lode mining and Sunset mill site claim designated by the Surveyor-General as Lot No. 2118-A and 2118-B, embracing a portion of the unsurveyed public domain in the Warm Springs Mining District, in the County of Coconino, and Territory of Arizona, in the District of Lands subject to sale at Phoenix, and bounded, described, and platted as follows, with magnetic variation fifteen degrees east.

Beginning for the description of the lot No. 2118-A, at corner No. 1, a cedar post four inches square, four feet long, marked 1-2118-A, with mound of stone, from which U. S. location monument No. 3, bears north six degrees and fifty-six minutes east three hundred and forty and four-tenths feet distant.

Thence, first course, north eighty-one degrees and twenty minutes east five hundred and thirty feet to corner No. 2, a cedar post four inches square, four feet long, marked 2-2118-A, with mound of stone.

Thence, second course, north eight degrees and twenty-one minutes west one thousand one hundred and seventy-four and nine-tenths feet to corner No. 3, a cedar post four inches square, four [271] feet long, marked 2-2118-A, with mound of stone. from which discovery bears south twelve degrees and fifty-seven minutes west six hundred and sixty-

five and nine-tenths feet distant.

Thence, third course, south eighty-one degrees and twenty minutes west five hundred and fifty-five feet to corner No. 4, a cedar post four inches square, four feet long, marked 4-2118-A, with mound of stone.

Thence, fourth course, south nine degrees and thirty-four minutes east one thousand one hundred and seventy-five feet to corner No. 1, the place of beginning. Said lot No. 2118-A, extending one thousand one hundred and seventy-five feet in length along said Sunset vein or lode and containing fourteen acres and six hundred and thirty-two thousandths of an acre.

Beginning for the description of the lot No. 2118-B, the Sunset mill site claim, at corner No. 1, a cedar post four inches square, four feet long, marked 1-2118-B, with mound of stone, from which said U. S. location monument No. 3 bears south forty-six degrees and fifteen minutes east two thousand nine hundred and twenty-six and seven-tenths feet distant and corner No. 4 of said lot No. 2118-A, bears south fifty-seven degrees and twenty minutes east two thousand two hundred and thirty feet distant.

Thence, first course, north twenty-four degrees east five hundred and ten feet to corner No. 2, a pine post four inches square, four feet long, marked 2-2118-B, with mound of stone.

Thence, second course, north sixty-six degrees west four hundred and twenty-five feet to corner No. 3, a pine post four inches square, four feet long, marked 3-2118-B, with mound of stone.

Thence, third course, south twenty-four degrees west five hundred and ten feet to corner No. 4, a pine post four inches square four feet long, marked 4-2118-B, with mound of stone.

Thence, fourth course, south sixty-six degrees east four hundred and twenty-five feet to corner No. 1, the place of beginning; [272] said lot No. 2118-B, containing four acres and nine hundred and seventy-six thousandths of an acre, which together with the area embraced in said lot No. 2118-A, aggregates nineteen acres and six hundred and eight thousandths of an acre of land, more or less.

Now Know Ye, That there is therefore hereby granted by the United States unto the said B. F. Saunders, and to his heirs and assigns, the said mining premises hereinbefore described, and not expressly excepted from these presents, and all that portion of the said Sunset vein, lode or ledge, and of all other veins, lodes and ledges, throughout their entire depth, the tops or apexes of which lie inside of the surface boundary lines of said granted premises in said Lot No. 2118-A, extended downward vertically, although such veins, lodes, or ledges, in their downward course may so far depart from a perpendicular as to extend outside the vertical side lines of said premises; provided, that the right of possession to such outside parts of said veins, lodes, or ledges, shall be confined to such portions thereof as lie between vertical planes drawn downward through the end lines of said Lot No. 2118-A, so continued in their own direction that such planes will intersect such exterior parts of said veins, lodes, or ledges;

and provided, further, that nothing herein contained shall authorize the grantee herein to enter upon the surface of a claim owned or possessed by another.

To Have and to Hold said mining premises, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging unto the said grantee above named and to his heirs and assigns forever; subject nevertheless to the above mentioned and to the following conditions and stipulations:

First. That the premises hereby granted, with the exception of the surface, may be entered by the proprietor of any other vein, lodge, or ledge, the top or apex of which lies outside of the boundary of said granted premises, should the same in its dip be [273] found to penetrate, intersect, or extend into said premises, for the purpose of extracting and removing the ore from such other vein, lode, or ledge.

Second. That the premises hereby granted shall be held subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local laws, customs, and decisions of the courts. And there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

Third. That in the absence of necessary legislation by Congress, the Legislature of Arizona, may provide rules for working the mining claim or prem-

ises hereby granted, involving easements, drainage, and other necessary means to its complete development.

IN TESTIMONY WHEREOF, I, Theodore Roosevelt, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the City of Washington, the ninth day of June, in the year of our Lord one thousand nine hundred and six, and of the Independence of the United States the one hundred and thirtieth.

By the President, T. ROOSEVELT.

By F. M. McKEAN,

Secretary.

[Seal]

C. H. BRUSH,

Recorder of the General Land Office. [274]

**Government's Exhibit No. 1—Application for Patent
for the Jacobs Mining Claim, Dated August 8,
1904.**

PATENT PROCEEDINGS JACOBS LODGE.

Application for Patent for the Jacobs mining claim, dated August 8th, 1904, by B. F. Saunders by John J. Hawkins, his attorney in fact.

Field-notes of survey of the mining claim made March 3d, 1904, by John T. Breckon, U. S. Mineral Surveyor.

Preliminary Oaths of Assistants in Survey.

(All in form similar to those set forth in Government's Exhibit No. 2.)

In the field-notes under the head of "Expenditure of \$500," the Deputy Mineral Surveyor certifies that the improvements consist of,

No. 1. An open cut 4 feet wide, 5 feet deep and 45 feet long in rock, the mouth of which bears west 4 feet from the discovery monument and runs north 10 degrees west. Value, \$300.

No. 2. A shaft 4x6 feet and 22 feet deep in earth, well timbered, the center of which bears north 50 degrees, 15 minutes, west 496 feet from corner No. 4. Value, \$150.

No. 3. A shaft 4x6 feet, and 14 feet deep in earth, well timbered, the center of which bears north 30 degrees, east 245 feet from corner No. 1. Value, \$100.

No. 4. A cabin 20x35 feet, built of logs with shingle roof, course of long side, north 88 degrees west, and south 88 degrees east, the southeast corner of which bears north 1 degree and 15 minutes west, 580 feet from corner No. 1. Value, \$100.

Then follows Final Oaths for Survey.

Final Oaths of Assistants. [275]

Final Oath of Deputy Mineral Surveyor, and Affidavit of \$500 of Improvement, similar in form to those set forth in Government's Exhibit No. 2.

NOTICE OF LOCATION (as follows):

Notice is hereby given, that the undersigned having complied with the requirements of Section 2324 of the Revised Statutes of the United States, the laws of the State of Arizona, and the local laws, customs and regulations of this district, have located fifteen hundred feet in length by six hundred feet in width, on this the Jacob Lode, vein or deposit, bear-

ing gold, silver, lead, copper and other valuable metals, situated in usually called Warm Springs Mining District, Coconino County, Ter. of Arizona, and claim nine hundred linear feet along the course of the vein in a southerly direction from this point of discovery, and six hundred linear feet along the course of the vein in a northerly direction from this point of discovery, and three hundred feet in width on the east side of the center of the vein, and three hundred feet in width on the west side of the center of the vein, the general course of said vein, as nearly as can be traced, being north and south, and the location being described and marked on the ground as follows, to wit:

Beginning at monument at point of discovery running south 900 feet, thence east three hundred feet to S. E. corner stake, thence north fifteen hundred feet to northeast corner stake, thence west six hundred feet to N. W. corner stake, thence south fifteen hundred feet to S. W. corner stake, thence east three hundred feet to south line center stake, thence north nine hundred feet to place of beginning. This mine is situated on Buckskin Mountain in Coconino Co. A. T. about two miles east of Petoska. The discovery monument is situated near the north shore of what is known as Jacobs Lake and about four hundred and fifty feet from center thereof. The name of the mining claim above described is, and it shall be known as the Jacob.

Located this 21st day of Oct. 1901.

Names of Locators,

B. F. SAUNDERS. [276]

Recorded this 13th day of December, 1901, at 9 o'clock A. M., in Book 3, of Mining Claims, page 493, Records of Coconino County, Arizona.

[Seal]

H. C. HIBBEN,
Recorder.

Then follows Surveyor-General's Certificate of Approval of Field-Notes and Survey.

Surveyor-General's Final Certificate on Field-notes.

(All similar in form to those set forth in Government's Exhibit No. 2.

Then follows Abstract of Title, showing copy of location notice by B. F. Saunders; Affidavit of Labor Performed during the year 1902; Affidavit of Labor Performed during the year 1903, and Certificate of County Recorder of Coconino County. Certificate of Clerk of the District Court that no judgments or suits pending.

Then follows Affidavit of Citizenship of B. F. Saunders, substantially as stated in Government's Exhibit No. 2.

Then follows Power of Attorney given by B. F. Saunders to John J. Hawkins to make application for patent and to take other steps to secure patent.

Then follows proof of Posting Notice and Diagram on claim, made by Charles Dimmick and Alex Swapp, July 28th, 1904.

Affidavit of John J. Hawkins, made November 3rd, 1904, that plat and notice remained posted on the claim.

Proof of publication from Williams News.
Agreement of Publisher.

Certificate of Register of Land Office that plat remained posted sixty days.

Application to Purchase, and Statement of Fees and Charges.

Then follows Receiver's receipt for \$100, dated November 3, 1904, by J. M. W. Moore, Receiver United States Land Office, similar in form to that set forth in Government's Exhibit No. 2.

Then follows Mineral Application and Register's Final Certificate of Entry, similar in form to those set forth in Government's Exhibit No. 2. [277]

UNITED STATES PATENT (as follows):

General Land Office,	Mineral Certificate.
No. 42246.	No. 626.

THE UNITED STATES OF AMERICA,

To all to whom these Presents shall come, Greeting:

WHEREAS, In pursuance of the provisions of the Revised Statutes of the United States, Chapter Six, Title Thirty-two, and legislation supplemental thereto, there have been deposited in the General Land Office of the United States, the plat and field-notes of survey and the Certificate No. 626 of the Register of the Land Office at Prescott, in the Territory of Arizona, accompanied by other evidence whereby it appears that B. F. Saunders did, on the third day of November, A. D. 1904, duly enter and pay for that certain mining claim or premises, known as the Jacob lode mining claim, designated by the surveyor-general as Lot No. 1923, embracing a portion of the unsurveyed public domain in the Warm Springs Mining District, in the County of Coconino, and Territory of Arizona, in the District of Lands

subject to sale at Prescott, and bounded, described, and platted as follows, with magnetic variation fifteen degrees and thirty minutes east.

Beginning at corner No. 1 a pine post four feet long, four inches square marked 1-1923 in mound of stone, from which U. S. Location Monument No. 1 bears south forty degrees and forty-seven minutes west six thousand one hundred and forty-seven and two-tenths feet distant.

Thence, first course, north four degrees and thirty-five minutes west one thousand four hundred and ten feet to corner No. 2, a pine post four feet long, four inches square, marked 2-1923, in mound of stone.

Thence second course, north eighty-five degrees and twenty-five minutes east six hundred feet to corner No. 3, a pine post four feet long, four inches square marked 3-1923 in mound of stone, from which discovery monument bears south twenty-five degrees and thirty-eight minutes west five hundred and ninety-six feet distant.

Thence third course, south four degrees and thirty-five minutes east one thousand four hundred and ten feet to corner No. 4, a pine post four feet long, four inches square, marked 4-1923 in mound of stone.

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Thence fourth course, south eighty-five degrees and twenty-five minutes, west six hundred feet to corner No. 1, the place of beginning, said lot No. 1923 extending one thousand four hundred and ten feet in length along said Jacob vein or lode and containing nineteen acres and four hundred and twenty-one

thousandths of an acre of land, more or less.

NOW, KNOW YE, that there is therefore hereby granted by the United States unto the said B. F. Saunders, and to his heirs and assigns, the said mining premises hereinbefore, described, and not expressly excepted from these presents, and all that portion of the said Jacob vein, lode or ledge, and of all other veins, lodes, and ledges, throughout their entire depth, the tops or apexes of which lie inside of the surface boundary lines of said granted premises in said lot No. 1923, extended downward vertically, although such veins, lodes or ledges in their downward course may so far depart from a perpendicular as to extend outside the vertical side lines of said premises: Provided, that the right of possession to such outside parts of said veins, lodes, or ledges, shall be confined to such portions thereof as lie between vertical planes drawn downward through the end line of said lot No. 1923, so continued in their own direction that such planes will intersect such exterior parts of said veins, lodes, or ledges: And, provided further, that nothing herein contained shall authorize the grantee herein to enter upon the surface of a claim owned or possessed by another.

To have and to hold said mining premises, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature thereunto belonging unto the said grantee above named and to his heirs and assigns forever, subject nevertheless to the above mentioned and to the following conditions and stipulations:

First. That the premises hereby granted, with

the exception of the surface, may be entered by the proprietor of any other vein, lode or ledge, the top apex of which lies outside of the boundary of said granted premises, should the same in its dip be found to penetrate, intersect, or [279] extend into said premises, for the purpose of extracting and removing the ore from such other vein, lode or ledge.

Second. That the premises hereby granted shall be held subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local laws, customs and decisions of the courts. And there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

Third. That in the absence of necessary legislation by Congress, the Legislature of Arizona may provide rules for working the mining claim or premises hereby granted, involving easements, drainage and other necessary means to its complete development.

IN TESTIMONY WHEREOF, I, Theodore Roosevelt, President of the United States of America, have caused these letters to be made patent, and the seal of the general land office to be hereunto affixed:

Given under my hand, at the City of Washington, the eighteenth day of March, in the year of our Lord one thousand nine hundred and seven, and of the In-

dependence of the United States the one hundred and thirty-first.

By the President, T. ROOSEVELT,
[Seal] By F. M. McKEAN,
Secretary.
C. H. BRUSH,
Recorder of the General Land Office. [280]

Government's Exhibit No. 10—Application for Patent for Noonday Mining Claim, Dated March 9, 1906.

PATENT PROCEEDINGS NOONDAY LODGE.

Application for Patent for the Noonday Lode mining claim, dated March 9th, 1906, by B. F. Saunders, by John M. Ross, his attorney in fact.

Field-notes of Survey of the mining claim made July 31st, 1905, by John T. Breckon, U. S. Deputy Mineral Surveyor.

Final Oaths for Surveys.

Final Oaths of Assistants.

Final Oath of U. S. Deputy Mineral Surveyor, and Affidavit of \$500 Improvement.

(All in form similar to those set forth in Government's Exhibit No. 2.)

In the Field-notes under the head of "Expenditure of \$500," the Deputy Mineral Surveyor certifies that the improvements consist of,

No. 1. A tunnel 4 by 6 ft. in solid rock, the mouth of which bears north 27 degrees, west 80 feet from the discovery and runs south 80 degrees east 45 feet to face. Value, \$400.

No. 2. A tunnel 4 by 6 feet in solid rock, the mouth of which bears north 34 degrees, west 105 feet,

from the discovery and runs east 25 feet to face.
Value, \$200.

NOTICE OF LOCATION (as follows):

Notice is hereby given, that the undersigned having complied with the requirements of Section 2324 of the Revised Statutes of the United States and the local laws, customs and regulations of this district, has located fifteen hundred feet in length by six hundred feet in width on this, the Noonday lode, vein or deposit, bearing gold, silver, copper, lead and other valuable minerals, situated in House Rock Valley about 1 mile north of House Rock Springs in 1 mile canyon, in the [281] Warm Springs mining district, Coconino County, Arizona Territory, the location being described and marked on the ground as follows, to wit:

Beginning 300 feet northerly of this location (Discovery monument, at the north end center monument, and running thence easterly 300 feet to the NE. corner monument No. 1; thence southerly 1500 feet to the SE. corner monument No. 2; thence westerly 300 feet to the south end center monument; thence westerly 300 feet to the SW. corner monument No. 3; thence northerly 1500 feet to NW. corner monument No. 4; thence easterly 300 feet to place of beginning; including all dips, spurs, angles and variations.

The above described mining claim shall be known as the Noonday lode located this 27th'' day of June, 1905.

Names of locators:

B. F. SAUNDERS.

Territory of Arizona,
County of Coconino,—ss.

I, H. C. Hibben, County Recorder in and for the county of Coconino, Territory of Arizona, and custodian of the records thereof, do hereby certify; that the above and foregoing is a full, true and correct copy of the location notice of Noonday mining claim, as the same appears of record in Book 3 of Mines, page 638, records of Coconino County, Ariz.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, this 19th day of July, A. D. 1905.

[Seal]

H. C. HIBBEN,

County Recorder, Coconino County, Arizona.

By T. E. Pullian,

Deputy.

Then follows Surveyor-General's Certificate of Approval of Field-notes and Survey of Mining Claim.

Surveyor-General's Final Certificates on Field-notes.

(All in form similar to those set forth in Government's Exhibit No. 2.)

Then follows Abstract of Title, showing copy of location notice by B. F. Saunders. [282]

Then follows Affidavit of Citizenship of B. F. Saunders, substantially as stated in Government's Exhibit No. 2.

Then follows Power of Attorney given by B. F. Saunders to John J. Hawkins, and John M. Ross,

to make application for patent and take other steps to secure patent.

Then follows Proof of Posting Notice and Diagram on claim, made by Charles Dimmick and Charles Lewis, February 14th, 1906.

Affidavit of John M. Ross that plat and notice remained posted on the claim, made June 13th, 1906.

Then follows Certificate of Register of Land Office that plat remained posted sixty days.

Agreement of Publisher, and Proof of Publication from Williams News.

Application to Purchase, and Statement of Fees and Charges.

Then follows Receiver's Receipt for \$80, dated June 21, 1906, by Fen S. Hildreth, Receiver United States Land Office, similar in form to that set forth in Government's Exhibit No. 2.

Then follows Register's Final Certificate of Entry, and Affidavit of John J. Hawkins, that no transfer had been made, dated June 18th, 1906.

UNITED STATES PATENT (as follows):
General Land Office, Mineral Certificate.
No. 44871. No. 170.

THE UNITED STATES OF AMERICA,
To all to whom these presents shall come, Greeting:

WHEREAS, In pursuance of the provisions of the Revised Statutes of the United States, Chapter Six, Title thirty-two, and legislation supplemented thereto, there have been deposited in the General Land Office of the United States the plat and field-notes of survey and the Certificate No. 170 of the Register of the Land Office at Phoenix, in the Territory of

Arizona, accompanied by other evidence whereby it appears that B. F. Saunders did, on the twenty-first day of June, A. D. 1906, duly enter and pay for that certain mining claim or premises, known as the Noonday Lode mining claim, designated by the Surveyor-General as Lot No. 2140, embracing a portion of the unsurveyed public domain, in the Warm Springs Mining District, in the County of Coconino and Territory of Arizona, in the District of Lands subject to sale at Phoenix, and bounded, [282½] described and platted as follows, with magnetic variation fifteen degrees east,

Beginning at corner No. 1 a pine post four feet long, four inches square marked 1-2140 in mound of stone from which U. S. Location Monument No. 5 bears south one degree and fifty-two minutes east, four hundred and eighty-five and two-tenths feet distant, and discovery bears south fifty-two degrees and fifty-five minutes east three hundred and forty-seven and two-tenths feet distant.

Thence first course north eighty-six degrees and sixteen minutes east three hundred feet to witness corner to corner No. 2 a cedar post four feet long, four inches square marked W. C. 2-2140 in mound of stone, six hundred feet to corner No. 2 on ledge and not established.

Thence second course, south five degrees and thirty-five minutes west eight hundred and ninety-six feet to pine post four feet long, four inches square, marked W. C. 2-2140 in mound of stone, one thousand one hundred and forty feet to corner No. 3 a cedar post four feet long, four inches square

marked 3-2140 in mound of stone.

Thence third course, south eighty-six degrees and sixteen minutes west, six hundred feet to corner No. 4 a cedar post four feet long, four inches square marked 4-2140 in mound of stone.

Thence fourth course, north five degrees and thirty-five minutes west, one thousand one hundred and forty feet to corner No. 1, the place of beginning. Said lot No. 2140 extending one thousand one hundred and forty feet in length along said Noonday vein or lode and containing fifteen acres and four hundred and ninety-five thousandths of an acre of land, more or less.

NOW KNOW YE, that there is therefore hereby granted by the United States unto the said B. F. Saunders and to his heirs and assigns, the said mining premises hereinbefore described, and not expressly excepted from these presents, and all that portion of the said Noonday vein, lode or ledge, and of all other veins, lodes and ledges throughout their entire depth, the tops or apexes of which lie inside of the surface boundary lines of said granted premises in said Lot No. 2140 extended downward vertically, although such veins, lodes or ledges in their downward course may so far depart from a perpendicular as to extend outside the vertical side lines of said premises; provided, that the [283] right of possession to such outside parts of said veins, lodes or ledges, shall be confined to such portions thereof as lie between vertical planes drawn downward through the end lines of said Lot No. 2140, so continued in their own direction that such planes

will intersect such exterior parts of said veins, lodes or ledges; And provided, further that nothing herein contained shall authorize the grantee herein to enter upon the surface of a claim owned or possessed by another.

To have and to hold said mining premises, together with all the rights, privileges, immunities and appurtenances of whatsoever nature thereunto belonging unto the said grantee above-named and to his heirs and assigns forever; subject nevertheless to the above-mentioned and to the following conditions and stipulations:

First. That the premises hereby granted, with the exception of the surface may be entered by the proprietor of any other vein, lode or ledge, the top or apex of which lies outside of the boundary of said granted premises, should the same in its dip be found to penetrate, intersect, or extend into said premises, for the purpose of extracting and removing the ore from such other vein, lode or ledge.

Second. That the premises hereby granted shall be held subject to any vested and accrued water rights for mining, agricultural, manufacturing or other purposes and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local laws, customs and decisions of the courts. And there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

Third. That in the absence of necessary legislation by Congress, the Legislature of Arizona may

provide rules for working the mining claims or premises hereby granted, involving easement, drainage, and other necessary means to its complete development.

IN TESTIMONY WHEREOF, I, THEODORE ROOSEVELT, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the City of Washington, the twenty-second day of June, in the year of our Lord one thousand nine hundred and seven, and of the Independence of the United States the one hundred and thirty-first.

By the President: THEODORE ROOSEVELT,

[Seal]

By F. M. McKEAN,

Secretary.

H. W. SANFORD,

Recorder of the General Land Office. [284]

Government's Exhibit No. 11—Application for Patent for Emmett Mining Claim, Dated December 9, 1905.

PATENT PROCEEDINGS EMMET LODE.

Application for Patent for the Emmett Mining Claim, dated December 9th, 1905, by B. F. Saunders by John J. Hawkins, his attorney in fact.

Field-notes of survey of the mining claim made July 31, 1905, by John T. Breckon, U. S. Mineral Surveyor.

(All in form similar to those set forth in Government's Exhibit No. 2.)

Then follows Final Oaths for Survey.

Final Oaths of Assistants.

Final Oath of U. S. Deputy Mineral Surveyor.

NOTICE OF LOCATION (as follows):

Notice is hereby given, that the undersigned having complied with the requirements of Section 2324 of the Revised Statutes of the United States and the local laws, customs and regulations of this district, has located fifteen hundred feet in length by six hundred feet in width, on this, the Emmett lode, vein or deposit, bearing gold, silver, copper, lead and other valuable minerals, situated in House Rock Valley about two miles east of the Jacobs Pools Springs in the Warm Springs Mining District, Coconino County, Arizona Territory, the location being described and marked on the ground as follows, to wit:

Beginning 500 feet south of this location (Discovery) monument at the south end center monument, and running thence easterly 300 feet to the SE. corner monument No. 1, thence northerly 1500 feet to NE. corner monument No. 2, thence westerly 300 feet to north end center monument; thence westerly 300 feet to NW. corner monument No. 3, thence southerly 1500 feet to SW. corner monument No. 4, thence easterly 300 feet to place of beginning, including all dips, spurs, angles and variations.

The above described mining claim shall be known as the Emmett lode located this 27th day of June, 1905.

Names of Locators,
B. F. SAUNDERS.

Recorded at request of B. F. Saunders, July 18th,
A. D. 1905, at 9 o'clock A. M.

H. C. HIBBEN,
County Recorder. [285]

Then follows Surveyor-General's Certificate of
Approval of Field-notes and Survey.

Surveyor-General's Final Certificates on Field-
notes,

(All similar in form to those set forth in Govern-
ment's Exhibit No. 2.)

Then follows Notice of Location.

Then follows Abstract of Title, showing copy of
location notice by B. F. Saunders.

Then follows Affidavit of Citizenship of B. F.
Saunders, substantially as stated in Government's
Exhibit No. 2.

Then follows Power of Attorney given by B. F.
Saunders to John J. Hawkins and John M. Ross to
make application for patent and take other steps to
secure patent.

Then follows Report of Expenditures upon Min-
ing Claim by John T. Breckon, U. S. Deputy Min-
eral Surveyor, dated December 2d, 1905. And under
"Expenditure of five hundred dollars, the Deputy
Mineral Surveyor certifies that the improvements
consist of,

A tunnel 4 by 6 ft. in earth and loose rock, the
mouth of which bears S. 10 deg. east 160 ft., from the
discovery and runs north 91 ft., to face. Value \$700.

Then follows Certificate of Surveyor-General of
Improvement.

Then follows Proof of Posting Notice and Diagram

on claim, made by Charles Dimmick and C. D. Crosbie, October 30th, A. D. 1905.

Affidavit of John J. Hawkins, made March 8th, 1906, that plat and notice remained posted on the claim.

Agreement of Publisher.

Certificate of Register of Land Office that plat remained posted sixty days.

Proof of Publication from Williams News.

Application to Purchase, and Statement of Fees and Charges.

Then follows Receiver's Receipt for \$90, dated March 23d, 1906, by Fen S. Hildreth, Receiver United States Land Office, similar in form to that set forth in Government's Exhibit No. 2. Also Mineral Application. [286]

Then follows Register's Final Certificate of Entry, all similar in form to those set forth in Government's Exhibit No. 2.

UNITED STATES PATENT (as follows):

General Land Office.

Mineral Certificate.

No. 44640.

No. 153.

THE UNITED STATES OF AMERICA.

To all to whom these Presents shall come, Greeting:

WHEREAS, In pursuance of the provisions of the Revised Statutes of the United States, Chapter Six, Title thirty-two and legislation supplemental thereto, there have been deposited in the General Land Office of the United States the plat and field-notes of survey and the Certificate No. 153, of the Register of the Land Office at Phoenix, in the Territory of Arizona, accompanied by other evidence

whereby it appears that B. F. Saunders did, on the twenty-third day of March, A. D. 1906, duly enter and pay for that certain mining claim or premises, known as the Emmett lode mining claims, designated by the Surveyor-General as Lot No. 2141, embracing a portion of the unsurveyed public domain in the Warm Springs Mining District, in the County of Coconino and Territory of Arizona, in the District of Lands subject to the sale at Phoenix, and bonded, described, and platted as follows, with magnetic variation fifteen degrees east,

Beginning at corner No. 1, a pine post four feet long, four inches square marked 1-2141 with mound of stones, from which U. S. Location Monument No. 3 bears north seventy-five degrees and thirty-four minutes west three thousand and thirty-seven and nine-tenths feet distant.

Thence first course, south twenty-two degrees and forty-one minutes west one thousand two hundred and thirty-six feet to corner No. 2, a pine post four feet long, four inches square, marked 2-2141 with a mound of stones.

Thence, second course, south sixty-seven degrees and five minutes east six hundred feet to corner No. 3, a pine post four feet long, four inches square marked 3-2141 with mound of stones, from which discovery bears north three degrees, five minutes and thirty seconds west, six hundred and eighty-nine and nine-tenths feet distant.

Thence, third course north twenty-two degrees and forty-one minutes east one thousand two hundred and thirty-six feet to corner No. 4, a pine post [287]

four feet long four inches square marked 4-2141 with mound of stones.

Thence, fourth course north sixty-seven degrees and five minutes west six hundred feet to corner No. 1, the place of beginning, said lot No. 2141 extending one thousand two hundred and thirty-six feet in length along said Emmett vein or lode, and containing seventeen acres and twenty-five thousandths of an acre of land, more or less.

NOW KNOW YE, that there is therefore hereby granted by the United States unto the said B. F. Saunders and to his heirs and assigns, the said mining premises hereinbefore described, and not expressly excepted from these presents, and all that portion of the said Emmett vein, lode, or ledge, and of all other veins, lodes, and ledges, throughout their entire depth, the tops or apexes of which lie inside of the surface boundary lines of said granted premises in said Lot No. 2141 extended downward vertically, although such veins, lodes or ledges in their downward course may so far depart from a perpendicular as to extend outside the vertical side lines of said premises; provided, that the right of possession to such outside parts of said veins, lodes, or ledges, shall be continued to such portions thereof as lie between vertical planes drawn downward through the end lines of said Lot No. 2141 so continued in their own direction that such planes will intersect such exterior parts of said veins, lodes or ledges; And provided, further that nothing herein contained shall authorize the grantee herein to enter

upon the surface of a claim owned or possessed by another.

TO HAVE AND TO HOLD said mining premises, together with all the rights, privileges, immunities and appurtenances of whatsoever nature thereunto belonging unto the said grantee above-named and to his heirs and assigns forever; subject nevertheless to the above-mentioned and to the following conditions and stipulations:

First. That the premises hereby granted, with the exception of the surface, may be entered by the proprietor of any other vein, lode, or ledge, the top of apex of which lies outside of the boundary of said granted premises, should the same in its dip be found to penetrate, intersect, or extend into said premises, for the purpose of extracting and removing the ore from such other vein, lode or ledge. [288]

Second. That the premises hereby granted shall be held subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local laws, customs, and decisions of the courts. And there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

Third. That in the absence of necessary legislation by Congress, the Legislature of Arizona may provide rules for working the mining claim or premises hereby granted, involving easements, drainage,

and other necessary means to its complete development.

IN TESTIMONY WHEREOF, I, Theodore Roosevelt, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington, the twentieth day of October, in the year of our Lord one thousand nine hundred and six, and of the Independence of the United States the one hundred and thirty-first.

By the President: T. ROOSEVELT,

[Seal]

By F. M. McKEAN,

Secretary,

C. H. BRUSH,

Recorder of the General Land Office. [289]

Government's Exhibit No. 30-P—Notice of Water Location.

NOTICE OF WATER LOCATION.

Notice is hereby given that the undersigned, B. F. Saunders, is the owner by location for purchase under the Land Laws of the United States of the following described tracts of land situated in Coconino County, Arizona, to wit:

1. House Rock Tract, situated in the House Rock Valley in the northern part of Coconino County, Arizona, containing 40 acres being 1320 feet square, the southeast corner of which bears south 7 degrees east, 819 feet distant, from House Rock Spring, widely known by that name in northern Arizona, and southern Utah.

2. Two Mile Tract situated in House Rock Valley in the northern part of Coconino County, Arizona, containing 40 acres being 1320 feet square, the southeast corner of which bears south 40 degrees east 172 feet distant from Two Mile Spring, a well known spring widely known by that name throughout northern Arizona, and southern Utah, and is situated about two miles in a northerly direction from House Rock Spring.

3. Jacob's Pools Tract, situated in House Rock Valley in the northern part of Coconino County, containing 40 acres, being 1320 feet square, the southwest corner of which bears south 38 degrees 20 minutes west, 925 feet distant from the main or largest pool of Jacob's Pools, so called, which are well known springs, through northern Arizona and southern Utah.

That upon each of said tracts there are springs or pools of water which originally and naturally did not rise to or flow upon the surface of the ground but which have been developed and the water brought to and collected upon the surface by the undersigned, his assignors and grantors, by means of tunnels, open cuts, and ditches driven into the hill.

That said water was, and is developed and the ditches, pipes, water troughs and reservoirs are and in the future will be maintained by the undersigned for the purpose of using the said tracts for beneficial and useful purposes, to wit, for the purpose of the watering of cattle and horses belonging to and in possession of the undersigned and for domestic and

culinary purposes and for irrigation of trees and shrubbery. [290]

That the water now flowing, and to flow upon and from each of said tracts as nearly as can be estimated is as follows: From the House Rock spring, ten gallons per minute, from the Two Mile Spring ten gallons per minute, and from the Jacob's Pool's Spring twenty-five gallons per minute, and will be used upon each respectively and to the full extent thereof, and in addition thereto it is the intention of the undersigned to use the water arising upon the Jacob's Pools Tract upon a tract of land situated about one mile to the south of said tract to which it will be piped by iron or wooden pipe, and there used for domestic and irrigating purposes, and the watering of stock.

This notice is posted in a public place upon each of the tracts of land above described and a copy thereof recorded in the office of the County Recorder of said Coconino County, pursuant to the provisions of the acts of the Governor and Legislative Assembly of Arizona, approved March 22d, and April 13th, 1893.

(Signed) B. F. SAUNDERS.

Residence and postoffice address, Salt Lake City,
Utah.

Recorded at request of B. F. Saunders, August 1st, A. D. 1901, at 9 o'clock A. M., in Book 1 of Mill sites and Water-rights, pages 228 and 229, Records of Coconino County, Arizona. [291]

Government's Exhibit No. 31-P—Deed Dated February 24, 1899, from A. L. Fotheringham and E. B. Gillies to T. S. Kingsbury.

DEED: Dated Feb. 24, 1899, between A. L. Fotheringham and E. B. Gillies, copartners as Fotheringham and Gillies, and T. S. Kingsbury, Fotheringham and Gillies convey to Kingsbury in consideration of \$4000 by the following words of grant "grant, sell and convey, remise, release and forever quitclaim all the right, title and interest, estate, claim and demand" of Fotheringham and Gillies to the following property:

"Undivided three-fourths interest in the Two Mile Ranch; all of the One Mile Ranch; all of the House Rock Ranch; all of the Soap Creek Ranch; all of the Cane Springs Ranch; all of the North Canyon Ranch; all of the Wild Cat Ranch; all of the South Canyon Ranch; all of the Buck Farm Ranch; all of the V. T. Park Ranch; all of the Basin Pasture Ranch; all of the Three Lakes Ranch; all of the Jacobs Lake Ranch; all of the Corral Crane Lake Ranch; and all of Tater Canyon Ranch, Lake Ranch, and all of Look-out Ranch; all of Fracas Lake Ranch; and all water rights upon or in anywise belonging to or used in connection with any and all of the ranches above mentioned and designated."

Signed Fotheringham and Gillies by A. L. Fotheringham.

Acknowledged by A. L. Fotheringham before William F. Knox, Notary Public, Beaver County, Utah, Feb. 24, 1899.

Property conveyed described as situated in Coconino County, Arizona.

Recorded August 1, 1901, at the request of B. F. Saunders in the office of the County Recorder of Coconino County, Arizona, Book 9 of Deed, at page 480. [292]

Government's Exhibit No. 32-P — Deed Dated August 5, 1899, Between Thos. F. Kingsbury and Ora Haley, and B. F. Saunders.

DEED: Dated August 5, 1899, between Thos. F. Kingsbury and Ora Haley and B. F. Saunders. Kingsbury "does grant, bargain, sell, remise and convey unto" Haley and Saunders, their heirs and assigns, the following property situated in Coconino County, Arizona:

"The 'V T' or Kaibab Ranch, comprising a range of about 35 miles northerly and southerly, and about 50 miles easterly and westerly on the north side of the Colorado River. Together with all the houses, corrals and ranch 'improvement' situate thereon, and all the waters and water rights now and heretofore owned, held or used in connection with the said Ranch, and all springs and waters located and situated thereon, and particularly the following waters, water rights and privileges, to wit:

An undivided $\frac{3}{4}$ ths interest in those certain waters known as 'Two Mile Springs'; all of those certain springs known as 'One Mile Springs'; 'Jacobs' Pools Springs,' 'House Rock Springs,' 'Soap Creek,' 'Badger Creek,' 'Kane Springs,' 'South Canyon Springs,' and 'Northern Canyon Springs,' all situate

in House Rock Valley on the ranch or range aforesaid; also the 'Wild Cat Springs,' 'Buck Farm Springs,' and 'Tater Canyon Springs,' all situate on First Bench of the Buckskin Mountains, on the ranch or range aforesaid; also the 'V. T. Park' waters, 'Basin Pasture' waters, 'Three Lakes,' 'Jacobs Lakes,' 'Corral Lakes,' 'Lookout Lakes,' 'Fracas Lakes,' and 'Crane Lakes,' all situated on the Buckskin Mountains on the ranch or range aforesaid, together with all waters flowing or to flow therefrom."

Deed signed by Thos. S. Kingsbury and acknowledged before William J. Barrette, Aug. 5, 1899, Recorded in the office of the County Recorder of Coconino County, Arizona, at the request of B. F. Saunders Aug. 1, 1901, Book 9 of Deeds, Page 483. [293]

Government's Exhibit No. 33-P—Deed Dated December 17, 1900, Between Hyrum S. Shumway and B. F. Saunders.

DEED: Dated December 17, 1900, between Hyrum S. Shumway and B. F. Saunders by which Shumway in consideration of \$300 "does bargain, grant, sell and convey" to Saunders "all the right, title and interest * * * of the said party of the first part (Shumway) in and to that certain lot and parcel of land situated in the northern portion of Coconino County, in the Territory of Arizona, together with all improvements thereon situated or thereunto belonging and described as follows to wit: One bunk house near the mill, one log house out at spring, one corral, large pile of slabs. The Lake, including all buildings, corrals and etc. belonging on said place.

All the fence and fencing enclosing the Lake.”

Signed by Hyrum S. Shumway and acknowledged Dec. 17, 1900, before John F. Brown, Notary Public, Kane County, Utah.

Recorded in the office of the County Recorder of Coconino County, Arizona, Aug. 1, 1901, Book 9 of Deeds, page 486. [293½]

Government's Exhibit No. 34-P—Deed Dated December 2, 1907, from B. F. Saunders and Ora Haley to Grand Canyon Cattle Co.

THIS INDENTURE made the 2d day of December, 1907, between B. F. Saunders * * * and Ora Haley * * * individually and as copartners doing business under the name and style of Haley & Saunders, parties of the first part, and Grand Canyon Cattle Company, a corporation organized under the laws of the State of California, party of the second part,

Witnesseth that said parties of the first part * * * do hereby bargain, sell, convey, assign and transfer to the party of the second part all cattle branded in the straight bar Z (\overline{Z}) brand and now located upon either of those two certain ranches, situate in the counties of Coconino and Mohave, Arizona, one of said ranches being commonly known as the V. T. Ranch, and the other as the Canebed Ranch or upon any part of the ranges or grazing ground heretofore used in connection with said ranch properties or either of them; also all cattle belonging to said first parties or either of them whether branded in said bar Z brand or otherwise now located

upon said ranches, ranges or grazing ground; also all
* * * horses and mules branded in the letter S
brand * * * or otherwise now owned or claimed
by said first parties or either of them and located
upon the lands above mentioned. Said first parties
also bargain, sell, assign, transfer and convey to sec-
ond party each of said brands and the right to use
and enjoy the same.

Signed by Haley and Saunders, Ora Haley and B.
F. Saunders, and acknowledged before James H.
Ball, notary public, Salt Lake County, Utah, Dec. 5,
1907.

Recorded at the request of E. J. Marshall, Jan. 2,
1908, in the office of the County Recorder of Coconino
County, Arizona, in Book 3, Bills of sale, page 185.
[294]

**Government's Exhibit No. 35-P—Deed, Dated De-
cember 2, 1907, from B. F. Saunders and Ora
Haley to Grand Canyon Cattle Co.**

This indenture, made the 2d day of December,
1907, between B. F. Saunders of Salt Lake City,
Utah, and Ora Haley, of Laramie, Wyoming, indi-
vidually and also as copartners doing business under
the name and style of Haley & Saunders, parties of
the first part, and Grand Canyon Cattle Company, a
corporation organized under the laws of the State of
California, party of the second part, the receipt
whereof is hereby acknowledged, do hereby grant,
bargain, sell, convey, assign, transfer, set over and
deliver to said party of the second part all personal
property of every name and description now located

within either the County of Mohave or the County of Coconino, in the Territory of Arizona, and on the 30th day of June, 1907, or at any time since, appertaining to or constituting a part of the equipment of or used, held or designed for use in connection with either of those two certain ranches located within said counties and commonly known, one as the V. T. Ranch and the other as the Canebed Ranch, including the good will of the business carried on on said ranches, and all pipes, pipe lines, tanks, fences, corrals, buildings, or other structures, wagons, vehicles, harness, saddles, machinery, tools, implements, materials, supplies, licenses, privileges and authorities which were on the 30th day of June, 1907, or at any time since have been used or held or designed to be used as a part of the equipment of either of said ranches or in connection with the carrying on of the business or operation to which said ranches were during said time devoted.

(Signed) HALEY & SAUNDERS.

ORA HALEY.

B. F. SAUNDERS.

Acknowledged December 5th, 1907, before James H. Ball, Notary Public, Salt Lake County, Utah, and recorded at request of E. J. Marshall, in the office of the County Recorder of Coconino County, Arizona, on May 24th, 1908, in Book 33 of Deeds at page 317. [295]

Government's Exhibit No. 36-P—Deed, Dated December 2, 1907, from B. F. Saunders and Ora Haley to Grand Canyon Cattle Co.

DEED, dated December 2d, 1907, between B. F. Saunders and Ora Haley, individually and as co-partners, under the name of Haley & Saunders, parties of the first part, and Grand Canyon Cattle Company, a corporation organized under the laws of the State of California, party of the second part.

Parties of the first part grant, bargain, sell, convey, assign, transfer, release and forever quit-claim unto the party of the second part, its successors and assigns, all the right, title, interest, estate, claim and demand, either at law or in equity, as well in possession as in expectancy of the parties of the first part or either of them in and to the following described property:

1st. That certain forty-acres of unsurveyed land at the mouth of Kane Canyon on the east side of the Buckskin Mountains in House Rock Valley, Coconino County, Arizona Territory, as set on the map made by John T. Breckson, United States Deputy Mineral Surveyor, filed in the office of the Register and Receiver of the United States Land Office at Prescott, Arizona, said forty acres being described as follows, to wit: From corner No. 1, which is a cedar post four feet long, four inches square and mound of stones marked Corner No. 1; thence east 1320 feet to Corner No. 2, a pine post marked Corner No. 2, thence north 1320 feet to Corner No. 3, a cedar post marked Cor-

ner No. 3; thence west 1320 feet to Corner No. 4, a cedar post and mound of stone marked Corner No. 4; thence south 1320 feet to Corner No. 1, the place of beginning. From Corner No. 1, the southeast corner of stone house 16x24 feet, bears north 26 degrees 30' east 345 feet distant.

2d. North Lake Tract, situate in the Buckskin Mountains, in the northern part of Coconino County, Arizona, particularly bounded and described as follows: Commencing at the southeast corner, or Corner No. 1, and running thence north 1320 feet to Corner No. 2, thence west 1320 feet to Corner No. 3, thence south 1320 feet to Corner No. 4, and thence east 1320 feet to Corner No. 1, the place of beginning. Corner No. 4 bears south 41 degrees west 895 feet distant from the center of the most northerly lake of the "Three Lakes," so-called, which latter are well known springs, land marks commonly and widely known by that designation. [296]

A pine tree 11 inches in diameter, bears north 39 degrees, 45' west 25.2 feet distant from Corner No. 1, at east corner of the tract is a post two inches square set in mound of rocks, three feet high, properly marked.

3d. Middle and South Lake, situate in the Buckskin Mountains, in the northern part of Coconino County, Arizona, particularly bounded and described as follows: Commencing at the southeast corner, or Corner No. 1, and running thence north 1320 feet to Corner No. 2, thence west 1320 feet to Corner No. 3, thence south 1320 feet to Corner No. 4, thence east 1320 feet to Corner No. 1, the place of beginning.

Corner No. 2, bears north 62 degrees 45' east, 345 feet distant from the center of the middle lake of the "Three Lakes," so-called, and north 50 degrees 30' east 995 feet distant from the center of the southerly lake of the "Three Lakes," so-called, which latter are well known springs, land marks commonly and widely known by that designation.

At east corner of the tract is a post two inches square set in mound of rocks, three feet high, properly marked.

4th. Jacobs Pools Tract, situate in House Rock Valley, in the northern part of Coconino County, Arizona, more particularly described and bounded as follows: Commencing at the southeast corner or Corner No. 1, and running thence north 1320 feet to Corner No. 2, thence west 1320 feet to Corner No. 3, thence south 1320 feet to Corner No. 4, thence east 1320 feet to Corner No. 1, the place of beginning. Corner No. 4, bears south 38 degrees 20' west 925 feet distant from the main or largest pool of "Jacobs Pools," so-called, the latter being well known springs, land marks widely and commonly known by that designation, and shown upon the official maps issued and published by the Commissioner of the General Land Office. At each corner of the tract is a post two inches square, set in a mound of rocks, three feet high, properly marked.

5th. Soap Creek tract, situated in House Rock Valley, in the northern part of Coconino County, Arizona, more particularly bounded and described as follows:

Commencing at the southeast corner or Corner No.

1, and running thence north 1320 feet to Corner No. 2, thence west 1320 feet to Corner No. 3, thence south 1320 feet to Corner No. 4, thence east 1320 feet to corner No. 1, the place of beginning. Corner No. 2 bears south 34 degrees east 4170 feet from the [297] spring, which is the source of "Soap Creek," which latter is a well known creek, a land mark widely and commonly designated by that name, flowing into House Rock Valley, well known by that name.

At each corner of the tract is a post two inches square, set in a mound of rocks, three feet high, properly marked.

6th. House Rock Tract, situate in the House Rock Valley in the northern part of Coconino County, Arizona, more particularly bounded and described as follows: Commencing at the southeast corner, or Corner No. 1, and running thence north 1320 feet to Corner No. 2, thence west 1320 feet to Corner No. 3, thence south 1320 feet to Corner No. 4, thence east 1320 feet to Corner No. 1, the place of beginning. Corner No. 1 bears south 7 degrees east, 819 feet distant from House Rock Springs, a spring which is a land mark and widely and commonly known as such throughout Coconino County and northern Arizona and southern Utah. At each corner of the tract is a post, two inches square set in a mound of rocks, three feet high, properly marked.

7th. Two Mile Tract, situate in House Rock Valley, in the northern part of Coconino County, Arizona, more particularly bounded and described as follows: Commencing at the southeast corner, or Corner No. 1, and running thence north 1320 feet, to

Corner No. 2, thence west 1320 feet to Corner No. 3, thence south 1320 feet to Corner No. 4, thence east 1320 feet to Corner No. 1, the place of beginning. Corner No. 1 bears south 40 degrees east, 172 feet from "Two Mile" Spring, a well known spring, which is a land mark widely and commonly known by that designation throughout Coconino County and Northern Arizona and situated about two miles in a northerly direction from House Rock Spring. At each corner of the tract is a post, two inches square, set in a mound of rocks, three feet high, properly marked.

8th. One Mile Tract, situated in House Rock Valley, in the northern part of Coconino County, Arizona, more particularly bounded and described as follows: Commencing at the southeast corner, or Corner No. 1, and running thence north 1320 feet to Corner No. 2, thence West 1320 feet to Corner No. 3, thence south 1320 feet, to corner No. 4, thence east 1320 feet to Corner No. 1, the place of beginning. Corner No. 1, bears south 65 degrees, 40' east 81 feet distant from "One Mile" Spring, a well known spring, which is a land mark in Coconino [298] County and throughout northern Arizona and southern Utah, commonly and widely known by that designation, situate about one mile in a northerly direction from the well known House Rock Spring. At each corner of the tract is a post, two inches square, set in a mound of rocks, three feet high, properly marked.

9th. Canaan Reservoir Tract, situate in the northwest part of Coconino County, Arizona, about

15 miles from Utah State Line, more particularly described as follows, to wit: Commencing at the southeast corner or Corner No. 1, and running thence north 1320 feet to Corner No. 2, thence west 1320 feet to Corner No. 3, thence south 1320 feet to Corner No. 4, thence east 1320 feet to Corner No. 1, the place beginning. Corner No. 2, bears north 6 degrees east, 610 feet distant from the center of the Dam of Canaan Reservoir, which latter is a well known land mark throughout said county and all northern Arizona and southern Utah, and is situate south 20 degrees west about 10 miles distant from Pipe Springs, widely and commonly known as a land mark throughout northern Arizona and southern Utah.

At each corner of the tract is a post two inches square, set in a mound of rocks, three feet high, properly marked.

* * * The parties of the first part hereby warrant and covenant that they have not nor has either of them at any time since June 30th, 1907, sold, conveyed, released, abandoned or surrendered any right, title or interest claimed by them or either of them in or two any of the lands, easements, privileges, tenements, hereditaments or property of any description hereinbefore described or mentioned.

Signed, ORA HALEY,
B. F. SAUNDERS.

Acknowledged before James H. Ball, Notary public, Salt Lake County, Utah, December 5th, 1907.

Recorded in the office of the County Recorder, Coconino County, Arizona, January 2d, 1908. [299]

Government's Exhibit No. 37-P—Deed Dated December 2, 1907, from B. F. Saunders and Ora Haley to Grand Canyon Cattle Co.

DEED, dated December 2d, 1907, between B. F. Saunders, of Salt Lake City, Utah, and Ora Haley of Laramie, Wyoming, individually, and as copartners under the name of Haley & Saunders, parties of the first part, and Grand Canyon Cattle Company, a corporation organized under the laws of California, party of the second part.

Parties of the first part grant, bargain, sell, convey, assign, transfer, remise, release, and forever quitclaim to the party of the second part, its successors and assigns all the right, title, interest, claim and demand either at law or in equity, and as well in possession as in expectancy of the parties of the first part or either of them, of, in or to the whole or any part of the lands, tenements or hereditaments hereinafter described, or mentioned, as follows:

1st. All of the lands, premises, appurtenances and hereditaments described or mentioned in these ten (10) certain notices of location executed by said B. F. Saunders and recorded in the office of the recorder of Coconino County, Arizona, in manner as follows: Notice of location of Frank Mining Claim, being recorded in Book 5 of mines, at page 355; notice of location of Alaska Mining Claim being recorded in Book 5 of Mines, at page 361; Notice of Location of Crane Mining Claim being recorded in Book 5 of Mines, at page 356; Notice of Location of Snipe Mining Claim being recorded in Book 5 of

Mines, at page 358; Notice of Location, of Noonday Mining Claim being recorded in Book 5 of Mines, at page 357; Notice of Location of Alaska Mill Site being recorded in Book 1 of Millsites and Water Locations, at page 441; Notice of Kane Millsite being recorded in Book 1 of Millsites and water rights, at page 440; Notice of Location of Kane Lode Mining Claim, recorded in Book No. 5 of Mines, page 359, and U. S. Receiver's Receipt thereof recorded in Book 32 of Deeds, page 174; Notice of Location of Sunset Millsite being recorded in Book 1 of Millsites and water rights, at page 442; Notice of Location of Noonday Mining claim being recorded in Book 3 of Mines, at page 638, together with all rights, authorities and priorities which said parties or either of them may have to perfect or acquire full and complete title to all of said lands and premises. [300]

2d. All of the lands, premises, waters, and water rights claimed or mentioned in that certain Notice of Location executed by said B. F. Saunders and recorded in Book 1 of Millsites and water rights, at pages 228 and 229 of the records in the office of the county recorder of said Coconino County, also all of the lands, premises, waters and water rights named or mentioned in that certain Notice of Location executed by one James S. Emmett and recorded February 21st, 1900, in Book 1 of Water rights, at page 156 of the records in the recorder's office of said Coconino County.

3d. All of the lands, premises, appurtenances, hereditaments and real property, of every description described or mentioned in these five (5) certain

deeds, namely; First, a deed dated August 5th, 1899, executed by Thomas S. Kingsberry as grantor, to said Haley and Saunders, as grantees, and recorded in Book 9 of Deeds, at pages 483-485, of the records in the recorder's office of said Coconino County; second, a deed of date December 17th, 1900, and executed by Hyrum S. Shumway, as grantor to said B. F. Saunders, as grantee, and recorded in Book 9 of Deeds, at pages 486 and 487 of the records in the recorder's office of said Coconino County; third, a deed of date July 17th, 1907, executed by H. S. Cuttler as administrator of the estate of H. D. Rosecrans, deceased, as grantor, to said B. F. Saunders, as grantee, and recorded in Book — of Deeds at page — of the records in the recorder's office of Mohave County, Arizona; the property by said deed conveyed being therein described as follows: That certain ranch of said Rosecrans, deceased, situated in the northeast corner of said Mohave and joining the Canebeds Ranch now owned by grantee, together with all building, houses, barns, corrals, farming tools and all other improvements had and used in connection therewith; fourth, a deed of date September 17th, 1901, executed by H. S. Cutler and H. S. Jolley, as grantor, to said B. F. Saunders, grantee, and recorded in Book 14 of Deeds, at pages 350 and 351 of the records in the recorder's office of Mohave County, Arizona; fifth, a deed of date February 24th, 1899; executed by Fotheringham and Gillies, a copartnership, composed of A. L. Fotheringham and E. B. Gillies, as grantors, to T. S. Kingsberry, as grantee, and recorded, in Book 9 of Deeds at pages 480 and

482 of the records in the office of the county recorder of said Coconino County; sixth; a deed of date November 27th, 1900, executed by H. S. Cutler, James Cutler and H. S. Jolley, as grantors, to B. F. Saunders, as grantee, and recorded [301] in Book — of Deeds, at page — of the records in the recorder's office of said Coconino County; the property conveyed by said deed being therein described as follows: The Canebeds ranch, including the Rock House, corrals, all the fence and fencing enclosing the pasture and bull pasture; also Badger Spring and the line of pipe running from said spring to the water tank, together with said water tank; also point of Rock lake situated about ten miles in a southwesterly direction from Canebeds House."

4th. All lands, waters, water rights and leases, licenses and privileges authorizing the use or enjoyment of any lands and all tenements and hereditaments of every description, located within said County of Mohave or said County of Coconino, which on June 30th, 1907, or at any time since said date have constituted a part of or have been used or held to be used in connection with either of those certain ranches located within said counties and commonly known, one as the V. T. and the other as the Canebed ranch.

* * * The parties of the first part hereby warrant or covenant they have not, nor either of them at any time since June 30th, 1907, sold, conveyed, encumbered, released, abandoned or surrendered any right, title or interest claimed by them or either of them in or to any of the lands, waters, water rights, easements, leases, privileges, tenements,

hereditaments or property of any description hereinbefore described or mentioned.

Signed,

ORA HALEY.

B. F. SAUNDERS.

Acknowledged before James H. Ball, notary public, Salt Lake County, Utah, December 5th, 1907. Recorded at request of E. J. Marshall, January 2d, 1908, in the office of the County Recorder, Coconino County, Arizona. [302]

Government's Exhibit No. 38-P—Deed Dated December 2, 1907, from B. F. Saunders to Grand Canyon Cattle Co.

THIS INDENTURE, made the 2d day of December, in the year nineteen hundred and seven, between B. F. Saunders, of Salt Lake City, State of Utah, party of the first part, and Grand Canyon Cattle Company, a corporation, organized under the laws of the State of California, party of the second part, Witnesseth:

That, the said party of the first part for a good and valuable consideration to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, does by these presents grant, bargain, sell, convey, and confirm unto the said party and to its successors and assigns forever all those certain parcels of real property situate in the County of Coconino, Territory of Arizona, and described as follows:

1st. That certain mining claim or premises known as the Emmett Lode Mining Claim located in

the Warm Springs Mining District and particularly described in that certain patent therefor dated October 20th, 1906, issued by the United States in favor of said party of the first part and recorded in the records of the County Recorder of said Coconino County, in Book 32 of Deeds, at pages 501-504.

2d. That certain mining claim or premises known as Jacob Lode Mining Claim situate in the Warm Springs Mining District and particularly described in a patent therefor of date March 18th, 1907, issued by the United States in favor of said party of the first part and recorded in Book 32 of Deeds, at pages 631-623 of the records in the Recorder's office of said Coconino County.

3d. That certain mining claim or premises known as the Sunset lode mining claim and Sunset Mill Site claim, located in the Warm Springs mining district and particularly described in a patent therefor of date June 9th, 1906, and issued by the United States in favor of said party of the first part and recorded in Book 32 of Deeds, at pages 374-377 of records in the recorder's office of said Coconino County.

4th. That certain mining claim or premises known as the Noonday Lode Mining Claim, located in Warm Springs Mining District, and particularly described in a patent therefor of date June 22d, 1907, and is issued by the United States in favor of said party of the first part, and recorded in Book 33 of Deeds, pages 290-292 of the records of the Recorder's office of said Coconino County. [303]

Together with all and singular the tenements, hereditaments and appurtenances thereunto belong-

ing or in any wise appertaining, and the rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular the above mentioned and described premises, together with the appurtenances, unto the said party of the second part and to its successors and assigns forever. And the said party of the first part and his heirs, executors and administrators, the said premises in the quiet and peaceful possession of the said party of the second part, its successors and assigns, against the said party of the first part and his heirs, executors and administrators and against all and every person and persons whomsoever lawfully claiming or to claim the same, shall and will warrant and by these presents forever defend.

Signed, B. F. SAUNDERS.

Acknowledged before James H. Ball, notary public, Salt Lake County, Utah, December 5th, 1907.

Recorded in the office of the County Recorder of Coconino County, Arizona, at the request of E. J. Marshall, January 2d, 1908. [304]

Government's Exhibit No. 39-P—Mortgage Dated December 2, 1907, from Grand Canyon Cattle Co. to Ora Haley and B. F. Saunders.

MORTGAGE.

Dated December 2d, 1907, made by the Grand Canyon Cattle Company, a corporation organized under the laws of California, party of the first part, and Ora Haley of Laramie, Wyoming, and B. F. Saunders, of Salt Lake City, Utah, parties of the second part.

Party of the first part for the purpose of securing payment of the sum of \$102,761.24, mortgages to parties of the second part a certain property situate in the counties of Coconino and Mohave, Arizona, to wit:

Emmett Lode Mining Claim, patented October 20th, 1906.

Jacob Lode Mining Claim, patented March 18th, 1907.

Sunset Lode Mining Claim and Sunset Mill Site Claim, patented June 9, 1906.

Noonday Lode Mining Claim, patented June 22d, 1907.

Also ten unpatented mining claims, notices of location of which are recorded in the office of the County Recorder as follows:

Frank Mining Claim, Book 5 of Mines, page 355;
Alaska Mining Claim, Book 5 of Mines, page 361;

Crane Mining Claim, Book 5 of Mines, page 356;
Snipe Mining Claim, Book 5 of Mines, page 358;
Noonday Mining Claim, Book 5 of Mines, page 357;

Alaska Mill Site, Book 1 of Mill Sites and Water Rights, page 441;

Kane Mill Site, Book 1 of Mill Sites and Water Rights, page 440;

Kane Lode Mining Claim, Book 5 of Mines, page 359;

Sunset Mill Site, Book 1 of Mill Sites and Water Rights, page 442;

Noonday Mining Claim, Book 3 of Mines, page 638;

Also all lands, premises and water rights mentioned in the certain notices of location as follows:

Location by B. F. Saunders, recorded in Book 1, Mill Sites and Water Rights, pages 228-229.

Location executed by James S. Emmett, recorded in Book 1, Mill Sites and Water Rights, at page 156;

Also lands, premises, etc., described in five deeds, as follows: [305]

Deed dated August 5th, 1899, Thomas S. Kingsberry to Haley and Saunders, recorded Book 9 of Deeds, pages 483-485.

Deed dated December 17th, 1900, Hyrum S. Shumway to B. F. Saunders, recorded Book 9 of Deeds, pages 486-487.

Deed dated July 17th, 1907, H. S. Cutler, administrator, to B. F. Saunders, recorded Book — of Deeds, pages —.

Deed dated September 17th, 1901, H. S. Cutler and H. S. Jolly to B. F. Saunders, recorded Book 14 of Deeds, pages 350-351.

Deed dated February 24th, 1899, A. L. Fotheringham and E. B. Gillies, partners as Fotheringham & Gillies to T. S. Kingsberry, recorded in Book 9 of Deeds, pages 480-482.

Deed dated November 27th, 1900, H. S. Cutler, James Cutler and H. S. Jolly to B. F. Saunders, conveying Canebeds Ranch and other property.

All lands, waters, water rights, leases, licenses and privileges situated within the County of Mohave or County of Coconino, which on June 30th, 1907 or at any time since that *that* date have been used in con-

nection with the V. T. Ranch and the Canebed Ranch; also forty acres of unsurveyed land and certain other tracts situated in said county of Coconino.

(The records above referred to are the records in the office of the County Recorder of Coconino County, Arizona.)

Signed, **GRAND CANYON CATTLE COMPANY.**

By E. J. MARSHALL,
President,
ROBT. BULTMAN,
Secretary.

Acknowledged before Laura M. McKeague, notary public, December 28th, 1907. Recorded January 8th, 1908, at request of B. F. Saunders, in the office of the County Recorder, Coconino County, Arizona.
[306]

**Government's Exhibit No. 40-P—Release of
Mortgage.**

Release of foregoing Mortgage,—Government's Exhibit No. 39-P.

Release dated June 10th, 1909, made by Ora Haley, personally on behalf of Haley & Saunders, a co-partnership.

Signed, **ORA HALEY.**

Acknowledged before James H. Ball, notary public, June 10th, 1909. Recorded June 16th, 1909, in the office of the County Recorder, Coconino County.
[307]

Government's Exhibit No. 49-P—Articles of Incorporation of the Grand Canyon Cattle Company.

**ARTICLES OF INCORPORATION OF THE
GRAND CANYON CATTLE COMPANY.**

KNOW ALL MEN BY THESE PRESENTS:
That we, the undersigned, the majority of whom are citizens and residents of the State of California, have this day voluntarily associated ourselves together for the purpose of forming a corporation under the laws of the State of California,

AND WE HEREBY CERTIFY:

First. That the name of said corporation shall be Grand Canyon Cattle Company.

Second. That the purposes for which it is formed are as follows, to wit: To perform and carry on all acts, transactions and operations proper or necessary to be performed or carried on in connection with the conduct, management or enjoyment of the business of purchasing, raising or otherwise acquiring, holding, feeding, handling, selling and otherwise dealing in livestock of every description; to purchase, lease, locate or otherwise acquire, own, exchange, sell or otherwise dispose of, pledge, mortgage and hypothecate any and all kinds of real and personal property, including bonds and shares of capital stock of other corporations, mines, mining claims, oil lands, coal lands, water and water rights, and to work, cultivate, mine, operate, develop and enjoy the same; to borrow money and execute notes, bonds, mortgages or deeds of trust, to secure the same and to exercise in respect thereof, and of all shares of capital stock and other securities and obligations,

any and all rights, powers and privileges which natural persons owning the same might exercise and in general to do all things necessary to the proper conduct and accomplishment of the business and objects of the corporation.

Third. That the place where the principal business of said corporation is to be transacted is Los Angeles, California.

Fourth. That the term for which said corporation is to exist is fifty (50) years from and after the date of its incorporation.

Fifth. That the number of Directors of said corporation shall be five (5), and that the names and residences of the Directors who are appointed for the first year and to serve until the election and qualification of their successors are as follows, to wit:
[308]

Names.	Residences.
Henry J. Stevens,	Los Angeles, California.
E. E. Milliken,	Los Angeles, California.
William S. White,	Los Angeles, California.
Joseph P. Loeb,	Los Angeles, California.
Edwin J. Loeb,	Los Angeles, California.

Sixth. That the amount of the capital stock of said corporation is two hundred thousand dollars (\$200,000) and the number of shares into which it is divided is two thousand (2,000) of the par value of one hundred dollars (\$100) each.

Seventh. That the amount of said capital stock which has been actually subscribed is five hundred dollars (\$500) and the following are the names of the persons by whom the same has been subscribed and the amount subscribed by each of them to wit:

Name of Subscribers.	No. of Shares.	Amount.
Henry J. Stevens,	1	\$100.00
E. E. Millken,	1	\$100.00
William S. White,	1	\$100.00
Joseph P. Loeb,	1	\$100.00
Edwin J. Loeb,	1	\$100.00

In Witness Whereof, we have hereunto set our hands and seals this 30th day of September, 1907.

HENRY J. STEVENS. (Seal)

E. E. MILLIKEN. (Seal)

WM. S. WHITE. (Seal)

JOSEPH P. LOEB. (Seal)

EDWIN J. LOEB. (Seal)

Certificate of Acknowledgement by incorporators before Walter J. Lundy, Notary Public, on October 1st, 1907.

Certificate of County Clerk of Los Angeles County, California, and Secretary of the State of California, that the foregoing is a correct copy of the original Articles.

Endorsed: Filed in the office of the Secretary of State the 4th day of October, A. D. 1907.

C. F. CURRY,
Secretary of State,
By J. Hoesch,
Deputy.

Record Book 207, Page 70. [309]

Government's Exhibit No. 12—Affidavit of John T. Brecken (Excluded).

Affidavit of John T. Brecken, excluded by the Court, and omitted. [310]

Government's Exhibit 57-P—Letter, Dated March 10, 1908, Signed by E. J. Marshall.

(Forest Service Grazing,
Office of the Chief,
Mar. 13, 1908,
Received.)

Washington, D. C., March 10, 1908.

Dear Sir:

Referring to the matter of the purchase by the Grand Canyon Cattle Company of Arizona, of B. F. Saunders, of Salt Lake City, of the livestock and improvements going to make up what is commonly known as the VT cattle proposition, located in Coconino, Arizona, and the notice recently served on Mr. Dimmick, Superintendent of the Grand Canon Cattle Company, directing that he make such arrangements as would enable the Forest Rangers to count the cattle going into the Forest Reserve in the Spring of 1908, we beg to respectfully submit that while we have no objection to a count being made of our cattle entering the Reserve, yet we believe that the number of cattle for which we have applied for grazing permits fully covers the number of cattle likely to enter the reserve to graze during

the season of 1908. In substantiation of this statement we beg to state that under the terms of our purchase from B. F. Saunders, we received and tally-branded 8,073 head of cattle up to November 1st, 1907; included in this number were 2,020 calves, many of which on November 1st were less than sixty days old; also included in this number were 1299 head of cattle received and tallied on the Canebed Ranch, situate seventy-five miles west of Buckskin Mountain and in Mohave County. Rather than subject the cattle to numerous round-ups in order to receive and tally the balance of the cattle included in the purchase of B. F. Saunders a compromise agreement was reached whereby we accepted range delivery and paid him for 10,000 head of cattle, accepting a bill of sale for the Z. BRAND. We believe, therefore, in asking for grazing permits for 2,000 head of cattle for the entire year, and 6,000 head for the summer season of 1908, that we have asked for permits covering as many of our cattle as are at all likely to enter the Forest Reserve at any time during the year, as we expect to maintain on the range of our Canebed Ranch at least 2,000 head of cattle. We further submit that if you accept our statement of facts as we here present them and will save us the trouble of rounding up cattle that are now ranging over a very extensive range that you will render us a very [311] great service at this particular time inasmuch as the cattle have not had a favorable winter season, and are not likely to be in

as good flesh as in ordinary Spring seasons.

Very truly,

GRAND CANYON CATTLE COMPANY.

By E. J. MARSHALL,

President.

The Forester,

Forestry Division,

Department of Agriculture,

Washington, D. C. [312]

**Government's Exhibit No. 28-P — Letter, Dated
March 30, 1908, Signed by E. J. Marshall to A. F.
Potter.**

Grand Canyon Cattle Company, Office of the
President.

Los Angeles, California, March 30th, 1908.

Mr. A. F. Potter, Assistant Forester,

Forest Service, Dept. of Agriculture,

Washington, D. C.

Dear Sir:

Enclosed please find letters from Mr. John H. Clark, Acting Supervisor of the Grand Canyon Forest Service, the one of March 20th having reference to the cutting down of our application for grazing permits from 8,000 to 6,000 head of cattle, and one bearing date March 24th, having reference particularly to the counting of our cattle as they go onto the Reserve in the spring of 1908, Remittances covering the grazing permits for 6,000 head of cattle for the summer season and 2,000 head of cattle for the winter season only, and 200 head of horses during the entire year, are going forward today to Mr. H. B. Cramer,

Fiscal Agent, Forest Service at Washington. You will note that Mr. Clark refers to the fact that we no doubt can take care of 2,000 head of cattle on the public lands. Mr. Clark, no doubt is not aware, that as summer advances it would require an army of men to keep cattle from leaving House Rock Valley and entering Buckskin Mountain. House Rock Valley is purely a winter range, and, as you must know, has many miles of territory, north and south. Cattle could not be maintained on this range, even though it were possible. It is as natural for cattle to leave this valley and enter the mountains through the various canyons, as spring advances, as it is that they should leave the mountains, driven out by snow in the fall, and again seek the House Rock Valley lands, their natural winter pasture. We cannot help but believe that the interests of this company are not being properly regarded by your acting supervisor, Mr. Clark. We have reason to believe that he is acting specially in the interest of the cattle men living in Utah, and that special efforts are being made this year, to grant summer grazing permits to ranch men whose ranches are far distant from Buckskin Mountain or the Grand Canyon Forest Reserve, and to the extent that these new people are willing to send cattle into the Buckskin Mountain, is the Grand Canyon Cattle Company to be cut down. It appears to us that this is neither in accordance with law, [313] nor is it the proper treatment we naturally would expect to receive at the hands of your local supervisor.

We are under the impression that through the purchase of all of the lands, all of the water rights, and

all of the improvements, together with the entire stock of cattle and horses formerly owned by B. F. Saunders, and pastured on Buckskin Mountain for the last twenty years, that we would be entitled, not so much to the special privileges heretofore enjoyed by Mr. Saunders, through personal inheritance, but at least to the grazing privileges enjoyed by him, as against any other applicants for grazing privileges, except applicants who were or had become *bona fide* settlers on the nearby public lands or on the actual Forest Service lands. We feel quite sure, from correspondence had with your Supervisor, Mr. Clark, that it is his construction of the law, that he must treat us as newcomers into the Grand Canyon Forest Reserve, and that he is accepting applications for the grazing privileges on Buckskin Mountain for the summer season of 1908 from parties who are not entitled, in our judgment, to be recognized, until after our needs have been supplied. This is our view of the situation after our conference with you and Mr. Pincho during our recent visit to Washington.

We beg therefore to ask if you cannot put us in better standing with your Supervisor, to the end that we may obtain through him, our just deserts, without the necessity of applying to your office. We dislike exceedingly to feel that your Supervisor, Mr. Clark, is intentionally operating against us, and in the interest of far-distant Utah ranchmen, although we are at this time almost forced to believe this is true. We much prefer to believe, however, that he is mistaken in his interpretation of the law.

We are also enclosing copy of our letter to the Su-

pervisor, of even date, in answer to his letter of March 24th, in reference to the counting of the cattle of this company as they enter the Reserve. We are in receipt of recent information to the effect that on account of very little rain and snow this year, cattle are not holding their own, and unless we have rain and warm weather within the next thirty days, we shall have very poor cattle before the time of their entering the Mountain ranges. If this is true, a very great loss will ensue for us if we are made to round up these cattle over such a vast range for the purpose of counting before they enter the Reserve.

Very truly,

E. J. MARSHALL,
President.

E. J. M-M. Enc. [314]

Los Angeles, California, March 30th, 1908.

Mr. John H. Clark, Acting Supervisor,
Forest Service, Kanab, Utah.

Dear Sir:

Your valued favor of 24th inst., is received. We note that the statement of the cost of the south half of the V. T. Park house has been transmitted to Washington, that payment may be arranged therefor.

While in the East recently, and in company with Mr. A. A. Anderson of New York City, formerly Superintendent of the Yellowstone Park Forest Reserve, and one of the most ardent supporters of the Forest Service, I called on Mr. Pincho in Washington, for a conference in regard to Forest Service regulations, and more particularly as regards the exact position of the Grand Canyon Cattle Company,

with reference to grazing privileges in the Grand Canyon Forest Reserve. While there, I gave the Department full information as to the nature of the B. F. Saunders sale to this Company, and exhibited statements showing the number of cattle counted and tally-branded, and the number finally decided on between Mr. Saunders and Mr. Stephenson, as the representative of this Company, as being the full number of cattle in the Bar "Z" brand, as of November 1st, 1907. As a result of our statements, we were informed that it would not be necessary for the Forest Service to make a count of our cattle going into the Reserve for the spring and summer of 1908. We have so advised Mr. Dimmick, our Foreman, and no doubt you will receive in due course of mail, information of a similar nature, from the Forest Service in Washington.

We gathered, as a result of our investigations, and from information derived from the Forest Service office in Washington, that the Grand Canyon Cattle Company, by reason of its purchase of B. F. Saunders of his ranch plant, and of all his live stock, is entitled to the same recognition in the matter of grazing privileges as B. F. Saunders would have been entitled to had he not made a sale to us. We feel, therefore, that our claims for pasture privileges are not being fairly considered by your office, and that you are classing us as an entirely new party seeking grazing privileges in the Grand Canyon Forest Reserve for the first time. We believe that our position entitles us to a preference in grazing privileges over new applicants who have not heretofore grazed [315] cattle on the Reserve, unless such applicants are *bona fide* settlers on

the public lands adjacent to the Reserve or on lands a part of the Forest Reserve.

We beg therefore to ask for a reconsideration of your decision to grant us a permit for but 6,000 head of cattle for the summer season of 1908, on account of applications from other parties for such a quantity as makes it necessary for you to reduce your allotment to this company. Very truly,

President.

E. J. M-M. [316]

Government's Exhibit No. 29-P — Letter, Dated April 22, 1909, from E. J. Marshall to Clyde Leavitt.

Grand Canyon Cattle Company, Office of the President, Wilcox Building.

Los Angeles, California, April 22d, 1909.

Mr. Clyde Leavitt,
District Forester,
Dept. of Agriculture,
Ogden, Utah.

My Dear Mr. Leavitt:

In pursuance of the agreement had with you and Mr. Potter during our conference at Ogden on the 10th inst., we herewith inclose for your information the following papers:

Affidavit of B. F. Saunders,

Affidavit of H. S. Stephenson and E. J. Marshall,

Statement of cattle operations.

The affidavit of B. F. Saunders refers to the pur-

chase by this company of all of the cattle owned by Saunders, of the manner of tallying said cattle, and of the final settlement on the basis of 10,000 head.

The affidavit of Mr. Stephenson and myself refers to the statement of cattle operations, which statement shows the number tallied during the Saunders roundup; the number settled for with Mr. Saunders, showing estimated number in each class going to make up the total of 10,000 head; the number of cattle of each class moved off of the range and out of the state during the year 1908; the number of cattle purchased and left on the ranch during the same period of time, and the number of calves branded during the same period of time.

In this statement we show an estimated loss of 5%. We do not know whether or not 5% will cover the loss in any one year. We only know that 5% is generally accepted by conservative ranchmen as covering losses from all causes, and we have adopted that figure in our own accounts.

From reports just received from our Superintendent, Mr. Dimmick, we are threatened with quite severe loss in House Rock Valley for the winter and spring, and we seriously question whether we will get through this year with the loss reported. [317]

Our affidavit further refers to the number of cattle now being run at Kanebeds, none of which cattle will go back to House Rock Valley or Buckskin Mountain, but on the contrary will come out and be shipped to California during the spring, summer and fall. Indeed, arrangements are now being made to pasture from 800 to 1000 head of the aged steers now running

at Kanebeds on the Panguesch Reserve.

We shall be glad to furnish you from time to time, when changes take place in the location of our steers, reports showing the movements of any of our cattle taken away or left on our ranges. We shall further be glad to furnish you monthly, quarterly or annually, the report of our manager as to the number of calves branded.

We trust the information furnished herewith will entirely satisfy your needs.

Thanking you for the courtesy extended us during the conference on the 10th inst., we beg to remain,

Very truly,

E. J. MARSHALL,

President.

(E-J-M) Incs. [318]

State of California,

County of Los Angeles,—ss.

This is to certify that the inclosed is a true and correct statement, showing all of the cattle transactions of the Grand Canyon Cattle Company from November 1st, 1907, to December 31st, 1908.

This is to further certify, that 12,878 head of cattle as shown in the estimate as being the total number of cattle owned by said Grand Canyon Cattle Company as of the 31st day of December, 1908, and located in Coconino and Mohave Counties, at least three thousand head of said total number are now located on what is commonly known as the Kanebeds Range, about seventy-five miles west of Buckskin Mountain, and that it is not the intention of this company to take to Buckskin Mountain for the grazing season of 1909,

any of the cattle so located.

This is to further certify that included in this number, are all calves born, marked and branded on the ranch to December 31st, 1908, and that about 200 calves as shown, were branded in the months of November and December.

This is to further certify that it is the intention of this company to remove from House Rock Valley and Buckskin Mountains during the early summer, from 300 to 500 old cows and possibly 500 three-year-old steers, or as many as can easily be gathered.

This is to further certify that in the opinion of the undersigned, that there will not be pastured on the range of the Kaibab Forest Reserve during the grazing season of 1909 in excess of 9,000 head of cattle belonging to this company.

Witness our hands this 20th day of April, 1909.

H. S. STEPHENSON.

E. J. MARSHALL.

Subscribed and sworn to before me this 20th day of April, 1909.

[Seal]

LAURA M. McKEAGUE,

Notary Public in and for Los Angeles County, State of California. [319]

State of California,

County of Los Angeles,—ss.

This is to certify that under the terms of the sale on the part of Saunders & Haley to the Grand Canyon Cattle Company, of all of the real estate, personal property and live stock owned in connection with what is commonly known as the V. T. Ranch proposition in Coconino and Mohave Counties, in the Terri-

tory of Arizona, that in the months of October and November, 1907, there were gathered, counted and tally branded, under the supervision of a representative of both the seller and the buyer, cattle to the number of eight thousand and seventy-three (8,073), classed as follows:

Old cows,	675
Cows,	2,106
Heifers, 2-year-old,	431
Heifers, yearlings,	659
Heifers, calves,	1,041
Steers, 3-year-old,	114
" 2-year-old,	270
" Yearlings,	1,484
" calves,	979
Bulls,	177
Old bulls,	137
Total,	8,073

Of said number, there were gathered, counted and branded on Buckskin Mountain and House Rock Valley, 6,774 head. On Kanebeds Range, about seventy-five miles west of Buckskin Mountain, 1,299 head.

This is to further certify that in lieu of making any further efforts to gather, count and tally brand additional cattle during a period of twelve months beginning November 1st, 1907, as was allowed Saunders & Haley, under their sale agreement with the Grand Canyon Cattle Company, it was mutually agreed between the parties to settle on the basis of 10,000 head of live stock, as making up all of the live stock in the Z S W brands, being all of the brands under which cattle were run in the counties named.

I hereby further certify that settlement was made to Saunders & Haley by the Grand Canyon Cattle Company on December 2d, 1907, on the basis of 10,000 head of live stock. Witness my hand this 20th day of April, 1909.

B. F. SAUNDERS.

Subscribed and sworn to before me this 20th day of April, 1909.

[Seal] LAURA M. McKEAGUE,
Notary public in and for Los Angeles County, State
of California. [320]

GRAND CANYON CATTLE COMPANY.

Cattle Statistics.

1908.

							5%	
	Tallied, 11/1-07	Estimate, 1/1 08	Bought,	Calves,	Sold,	Loss,	Estimate, 12/31 08	
Old cows,	675	800			528	40	172	
Cows,	2,106	3,125	1			155	2,971	
Heifers,	2's 431	824				40	784	
	1's 659	1,300				65	1,235	
Steers,	3's 114	480	402		480	24	378	
	2's 270	1,855	362		28	92	2,097	
	1's 1,484	1,234	956			61	2,119	
Bulls,	177	221	100			11	310	
Old bulls,	137	171			76	8	87	
Calves, H.	1,041			1,412		70	1,342	
	s 979			1,455		72	1,383	
<hr/>								
	8,073	10,000	1,821	2,867	1,172	638	12,878	

Los Angeles, California, March 31st, 1909.

[321]

**Government's Exhibit No. 41-P—Decision of
General Land Office.**

Certified Copy of Decision of the General Land
Office.

“Department of the Interior,
General Land Office,
Washington,

September 18, 1913.

Location adjudged invalid.

Case closed.

Register and Receiver,
Phoenix, Arizona.

Sirs:

By office letter “P,” dated October 21, 1912, you were directed to proceed under circular of January 19, 1911, against the Crane Lode location, made February 18, 1904, by B. F. Saunders, Salt Lake City, Utah, covering a tract of land in approximately unsurveyed T. 36 N., R. 2 E., G & S. R. B & M., on Buckskin Mountain about fifteen miles south of Jacob's Lake, and within the Kaibab National Forest, notice of which is of record in Book 5 of Mines, page 356, at Flagstaff, Arizona, Grand Canyon Cattle Company of 516 Wilcox Building, Los Angeles, California, present claimant and in the notice provided by said circular to state that a forest officer charged that no discovery of mineral had been made upon the land; that said land was not mineral in character, and that the location was not made for the purpose of developing mineral resources, but for the purpose of fraudu-

lently obtaining title to a tract of land whose chief value is for stock watering purposes.

By letter dated May 31, 1913, you reported that notice of said charges was duly given the claimant; that it filed answer thereto and asked for a hearing; and that, on March 31, 1913, the answer was withdrawn by the claimant, since which time no action has been taken. [322]

The denial of the charges and request for a hearing having been withdrawn, the claimant is in default under Paragraph 10 of said circular, and said charges are taken as true. Said asserted mining location is, therefore, hereby adjudged to be wholly null and void, and the land covered thereby will be administered as a part of the public domain, subject to the reservation for forestry purposes, without regard to the so-called location.

(H. H. Yard et al., 38 L. D., 59.)

The case is hereby closed. So note your records and advise claimant.

Very respectfully,

CLAY TALLMAN,

Commissioner.

BOARD of LAW REVIEW. By W. B. PUGH.
9/13/13 McC. [323]

**Government's Exhibit No. 42-P—Decision of
General Land Office.**

Certified Copy of Decision General Land Office.

Decision in the same language as Government's Exhibit No. 41-P, except it cancels Frank Lode Mining Claim, made February 18th, 1904, by B. F. Saun-

ders, situated about twelve miles southwest of Jacobs Lake.

Location Notice, Recorded in Book 5 of Mines, page 355. [324]

**Government's Exhibit No. 43-P—Decision of
General Land Office.**

Certified Copy of Decision of General Land Office.

Decision in same language as Government's Exhibit No. 41-P, except it cancels Noonday Lode location, made February 18th, 1904, by B. F. Saunders, situate on Buckskin Mountain about five miles southeast of Three Lakes and ten miles south of Jacobs Lake. Location recorded in Book 5 of Mines, page 359. [325]

**Government's Exhibit No. 44-P—Decision of
General Land Office.**

Certified Copy of Decision General Land Office.

Decision in the same language as Government's Exhibit No. 41-P, except it cancels Snipe Lode Claim, location made February 17th, 1904, by B. F. Saunders, situated about five miles southeast Three Lakes and ten miles southeast of Jacobs Lake.

Location recorded in Book 5 of Mines, page 358. [326]

**Government's Exhibit No. 45-P—Decision of
General Land Office.**

Certified Copy of Decision General Land Office.

Decision in the same language as Government's

Exhibit No. 41-P, except it cancels Alaska Millsite, location made February 18, 1904, by B. F. Saunders, situated on the Fracas Lake, about one mile west of Three Lakes.

Location recorded in Book 1 of Mill Sites, page 441. [327]

**Government's Exhibit No. 46-P—Decision of
General Land Office.**

Certified Copy of Decision General Land Office.

Decision in the same language as Government's Exhibit No. 41-P, except it cancels Alaska Lode, location made February 19, 1904, by B. F. Saunders, situated on Buckskin Mountain, about one mile south of Three Lakes.

Location recorded in Book 5 of Mines, page 361. [328]

**Government's Exhibit No. 47-P — Forest Reserve
Lieu Selection Made by F. A. Hyde.**

Forest Reserve Lieu Selection. F. A. Hyde & Company, a corporation, by Benjamin F. Saunders, attorney in fact, relinquish to the United States certain lands in Fresno County, California, and select in lieu thereof the lands specified in the following Forest Reserve Lieu Application:

U. S. Land Office at Prescott, Arizona,
September 24th, 1900.

Notice is hereby given that F. A. Hyde & Co. (Inc.), whose postoffice address is San Francisco, California, has this day made application to select under the provisions of the Act of June 4th, 1897 (30

Stat. 36) the following described tracts of unsurveyed land, each and every tract containing 40 acres, all situate in Coconino County, in Prescott Land District, Territory of Arizona, and containing in all 160 acres, viz:

(1) "House Rock" tract, situate in the House Rock Valley, in the northern part of Coconino County, Arizona, more particularly bounded and described as follows: Commencing at the southeast corner or Corner No. 1, and running thence north 1320 feet to Corner No. 2; thence west 1320 feet to Corner No. 3; thence south 1320 feet to Corner No. 4; thence east 1320 feet to Corner No. 1, the place of beginning. Corner No. 1 bears south 7 degrees east 819 feet distant from House Rock Spring, a spring which is a landmark, and widely and commonly known as such throughout Coconino County and Northern Arizona and Southern Utah.

At each corner of the tract is a post two inches square set in a mound of rocks three feet high, properly marked.

(2) "Two Mile" tract, situate in House Rock Valley, in the northern part of Coconino County, Arizona, more particularly bounded and described as follows: Commencing at the southeast corner of Corner No. 1, and running thence north 1320 feet to Corner No. 2; thence west 1320 feet to Corner No. 3; thence south 1320 feet to Corner No. 4; thence east 1320 feet to Corner No. 1, the place of beginning. Corner No. 1 bears south 40 degrees east 172 feet from "Two Mile" spring, a well-known spring which is a landmark widely and commonly known

by that designation throughout Coconino County and Northern Arizona, and situated about two miles in a northerly direction from House Rock Spring. [329]

At each corner of the tract is a post two inches square set in a mound of rocks three feet high, properly marked.

(3) "One Mile" tract, situate in House Rock Valley, in the northern part of Coconino County, Arizona, more particularly bounded and described as follows: Commencing at the southeast corner of Corner No. 1, and running thence north 1320 feet to Corner No. 2; thence west 1320 feet to Corner No. 3; thence south 1320 feet to Corner No. 4; thence east 1320 feet to Corner No. 1, the place of beginning. Corner No. 1 bears south 65 degrees 40' east 81 feet distant from "One Mile" spring, a well-known spring which is a landmark in Coconino County and throughout Northern Arizona and Southern Utah, commonly and widely known by that designation, situate about one mile in a northerly direction from the well-known House Rock Spring.

At each corner of the tract is a post two inches square set in a mound of rocks three feet high properly marked.

(4) "Canaan Reservoir" tract, situate in the northwest part of Coconino County, Arizona, about 15 miles from Utah State line, more particularly described as follows, to wit: Commencing at the southeast corner of Corner No. 1, and running thence north 1320 feet to Corner No. 2; thence west 1320 feet to Corner No. 3; thence south 1320 feet to Cor-

ner No. 4; thence east 1320 feet to Corner No. 1, the place of beginning. Corner No. 2 bears north 6 degrees east 610 feet distant from the center of the dam of Canaan Reservoir, which latter is a well-known landmark throughout said county and all northern Arizona, and southern Utah, and is situate south 20 degrees west about 10 miles distant from Pipe Springs, widely and commonly known as a landmark throughout northern Arizona and southern Utah.

At each corner of the tract is a post two inches square set in a mound of rocks three feet high properly marked.

Papers executed by Benjamin F. Saunders, attorney in fact for F. A. Hyde & Company, a corporation, nonmineral and nonoccupancy affidavit, made as follows:

H. S. Stephenson being duly sworn according to law deposes and says that he makes this affidavit for F. A. Hyde & Company, who is an applicant for government title to the tracts hereto attached and described by metes and bounds. (Here follows description of land as in Forest Reserve Lieu Application of this exhibit.) [330]

* * * "that he is well acquainted with the character of said described land, and with each and every legal subdivision thereof, having frequently passed over the same; that his personal knowledge of said land is such as to enable him to testify understandingly with regard thereto; that there is not, to his knowledge, within the limits thereof, any vein or lode of quartz or other rock in place, bearing gold,

silver, cinnabar, lead, tin, or copper, or any deposit of coal; and that there is not within the limits of said land, to his knowledge, any placer, cement, gravel, or other valuable mineral deposit; that no portion of said land is claimed for mining purposes under the local customs or rules of miners or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that the said land is essentially non-mineral land, and that his application therefore is not made for the purpose of fraudulently obtaining title to mineral land, but with the object of securing said land for agricultural purposes; that the said land is unoccupied by anyone other than the selector or his agents; and that there is not within the limits of said land any salt spring or deposit of salt in any form to make it chiefly valuable therefor; that it is not claimed by any Indian. My postoffice address is 224 H. W. Hellman Building, Los Angeles, Calif.

H. S. STEPHENSON.

I hereby certify that the foregoing affidavit was read to affiant in my presence before he signed his name thereto; that said affiant is to me personally known (or has been satisfactorily identified before me by —), and that I verily believe him to be a credible person and the person he represents himself to be, and that this affidavit was subscribed and sworn to before me at my office in Los Angeles, Calif., within the land district, on this 31st day of January, 1901.

L. B. JORALMON,

Notary Public in and for the County of Los Angeles,
State of California.” [331]

**Government's Exhibit No. 48-P — Lieu Selection
Made by Mary E. Coffin.**

Lieu selection made by Mary E. Coffin, by Benjamin F. Saunders, attorney in fact.

Mary E. Coffin and husband relinquishes to the United States certain lands within the County of Socorro, Territory of New Mexico, included within the Gila River Forest Reservation, and selects in lieu thereof the lands hereinafter described in Forest Reserve Lieu Application, as follows:

FOREST RESERVE LIEU APPLICATION.

U. S. Land Office at Prescott, Arizona,
September 24, 1900.

Notice is hereby given that Mary E. Coffin, whose postoffice address is Duluth, Minnesota, has this day made application to select under the provisions of the Act of June 4, 1897 (30 Stat. 36), the following described tracts of unsurveyed land, each and every tract containing 40 acres, all situate in Coconino County, in Prescott Land District, Territory of Arizona, and containing in all 160 acres, viz:

(1) "North Lake" tract, situate in the Buckskin Mountains in the northern part of Coconino County, Arizona, particularly bounded and described as follows: Commencing at the southeast corner or Corner No. 1, and running thence North 1320 feet to corner No. 2, thence west 1320 feet to corner No. 3, thence south 1320 feet to corner No. 4, and thence east 1320 feet to corner No. 1, the place of beginning. Corner No. 4 bears south 41 Deg. west 895 feet distant from the center of the most northerly lake of the "Three

Lakes'' so-called, which latter are well-known springs, landmarks commonly and widely known by that designation.

A pine tree, 11 inches in diameter bears north 31 degrees, 45' west, 25.2 feet distant from corner No. 1. At each corner of the tract is a post two inches square set in a mound of rocks three feet high, properly marked.

(2) "Middle and South Lake" tract situate in the Buckskin Mountains in the northern part of Coconino County, Arizona, particularly bounded and described as follows: [332]

Commencing at the southeast corner or Corner No. 1, and running thence north 1320 feet to Corner No. 2, thence west 1320 feet to corner No. 3, thence south 1320 feet to corner No. 4, thence east 1320 feet to corner No. 1, the place of beginning. Corner No. 2 bears north 62 degrees 45' east, 845 feet distant from the center of the middle lake of the "Three Lakes," so-called, and north 50 degrees 30' east 995 feet distant from the center of the southerly lake of the "Three Lakes" so-called, which latter are well known springs, landmarks widely and commonly known by that designation. At each corner of the tract is a post two inches square set in mound of rocks three feet high, properly marked.

(3) "Jacobs Pools" tract, situate in House Rock Valley, in the northern part of Coconino County, Arizona, more particularly described and bounded as follows: Commencing at the southeast corner or Corner No. 1, and running thence north 1320 feet to Corner No. 2, thence west 1320 feet to corner No. 3,

thence south 1320 feet to Corner No. 4, thence east 1320 feet to Corner No. 1, the place of beginning. Corner No. 4 bears south 38 degrees 20' west 925 feet distant from the main or largest pool of "Jacobs Pools," so-called, the latter being well known springs, landmarks widely and commonly known by that designation, and shown upon the official maps issued and published by the Commissioner of the General Land Office. At each corner of the tract is a post two inches square set in a mound of rocks three feet high, properly marked.

(4) "Soap Creek" tract, situate in House Rock Valley in the northern part of Coconino County, Arizona, more particularly bounded and described as follows: Commencing at the southeast corner or Corner No. 1, and running thence north 1320 feet to Corner No. 2, thence west 1320 feet to Corner No. 3, thence south 1320 feet to Corner No. 4, thence east 1320 feet to Corner No. 1, the place of beginning. Corner No. 2 bears south 34 degrees east 4170 feet from the spring which is the source of Soap Creek, which latter is a well-known creek, a landmark widely and commonly designated by that name flowing into House Rock Valley, well known by that name.

At each corner of the tract is a post two inches square set in a mound of rock three feet high, properly marked.

Then follows various papers executed by Benjamin F. Saunders, attorney in fact for Mary E. Coffin and Herbert W. Coffin, her husband. [333]

Government's Exhibit No. 22—Assay Certificate.

Union Assay Office,

Salt Lake City, Utah, Dec. 9, 1908.

Sample Serial, 1187-9.

Shipper, W. L. Walker.

Results per ton of 2000 Pounds.

No. Class,	Gold Value	Silver	Lead	Copper	Insol.	Zinc.	Sulphur,	Speiss,	Iron
	Ozs. Gold.	Ozs. per	per	per	per	per	per	per	per
	per ton.	per ton.	cent.	cent wet.	cent.	cent.	cent.	cent.	cent.
11-35-a-	None	None		Trace	Weight—	7.7	oz.		Avd.
11-35-b-	"	"		"					
11-37-a-	"	"		"	"	—5.4	"		

UNION ASSAY OFFICE,

Charges, \$4.50.

Per J. W. Sadler. [334]

Defendant's Exhibit "B" — Memorandum Agreement Dated July 30, 1907.

Salt Lake City, Utah, July 30th, 1907.

MEMORANDUM OF AGREEMENT made by and between Ora Haley, of Laramie, Wyoming, and B. F. Saunders, of Salt Lake City, Utah, copartners doing business as Haley & Saunders, parties of the first part, and E. J. Marshall, of Los Angeles, California, party of the second part, WITNESSETH:

THAT, WHEREAS, said first parties claim to be the owners of all property, real, personal and mixed, which constitutes a part of, is in any manner connected with or appertains to the business, plants or equipment of these two certain ranches located in the counties of Coconino and Mohave, Territory of

Arizona, one of said ranches being commonly known as the V. T. Ranch, and the other as the Cane-Bed Ranch, or either of said ranches, and claim to be the owners of all existing rights, tiles and interests of every name and description other than such rights or titles as may be vested in the United States in and to all and every part of the lands, waters, easements, tenements and hereditaments which now constitute a part of or appertain to either of said ranches or ranch properties, or are used or designed or intended for use in connection with said properties or any part thereof, or the business conducted on said ranches, and that among the land so claimed by said first parties are six certain tracts containing forty (40) acres each, and acquired by and through locations made with Forest Reserve scrip, and approved by the proper officials of the United States Land Office having jurisdiction of said lands; upon one of said tracts there being located springs and watering places known as One Mile Spring, and upon another the Two Mile Spring, and upon another the House Rock Spring, and upon another the watering place known as Jacobs Pools, and upon another the waters known as Threé Lakes, and upon another the waters known as Soap Creek, and that there is also included among said lands five certain patented mining claims as follows: One known as Jacob's Lode, located on Jacob's Lake; another known as Emmett lode, located near Emmett Springs; another known as Noonday lode and Mill site, located near One Mile Spring; another known as Sunset lode mill site, lo-

cated east of and near to Jacob's Pool, and that there is also included among said lands four certain existing and valid mining and mill site locations as follows: One known as Kane Lode and Mill Site, [335] located near Kane Springs; another known as Alaska lode and mill site, located near 11½ Miles Camp; another known as Crane mining claim, located near Crane Lake; and another known as Snipe mining claim. Also included among those lands are two certain desert claim locations, one of 320 acres and the other of 40 acres, acquired with Forest Reserve scrip, intended to be used as a reservoir site in connection with Cane-Bed ranch. And also included among said ranch property and equipments are houses, corrals, fences, wagons, farming implements, harnesses and more than twenty-four (24) miles of pipe line, used for carrying water; and there is also included in said properties between twelve thousand and fourteen thousand head of stock cattle consisting approximately of 320 thoroughbred registered bulls, 4,358 cows, 1,087 two year old heifers, 1,367 one year old heifers, 500 steers, two years old and up, 1,950 one year old steers, and 3,000 calves; all of said cattle with the exception of from 600 to 800 head being in the straight bar Z (Z) brand; there is also included in said property about one hundred and seventy-five (175) saddle, range and work horses, pack mules, trail and pack horses (it being the intention of the parties hereto that all horses located upon or appertaining to either of said ranch properties on the 30th day of June, 1907, shall be

included herein), and that all of said livestock, including said horses and cattle, are now located on said lands and ranches of said parties of the first part or ranging on adjoining government lands, including the Forest Reserve of Buckskin Mountain lying west and north of the Grand Canyon of the Colorado River and in said counties; and that there is also included among said properties certain shares of the par value of at least four thousand (\$4,000) dollars of the stock of a corporation engaged in the business of raising buffalo and *cataloe*, and now operating on government lands lying west of the Colorado River and southwest from Lee's Ferry in said County of Coconino; and

WHEREAS, said first parties have offered to sell, transfer and convey all of their right, title and interest in and to said properties to said second party for a certain price and upon certain terms and conditions as to delivery of said property and payment of said prices; and [336]

WHEREAS, said second party is willing to purchase the same for said price and upon said terms and conditions, and WHEREAS said second party has personally and through his agent examined said properties, and WHEREAS both of said parties are desirous that the terms and condition of said agreement to sell and purchase shall be put in writing;

NOW, THEREFORE, said first parties hereby promise and agree to sell, transfer, convey and deliver to said second party and said second party hereby agrees to buy all of the livestock and personal property of every description hereinbefore mentioned;

also, all of the right, title and interest in or to the lands, tenements and hereditaments hereinbefore mentioned, of which said first parties, or either of them, individually or as copartners are the owners for the following price, to wit: The sum of fifty thousand dollars (\$50,000) for all of said property, excepting only said livestock, and the sum of sixteen dollars (\$16) per head for all livestock of the above description delivered to said second party by said first parties in the manner and within the time hereinafter provided; it being understood and agreed that the first parties shall furnish warranty deeds conveying all patented lands and mining claims and quitclaim deeds conveying all the right, title and interest of said first parties, or either of them, in or to the other lands, tenements, hereditaments, rights and franchises and said quitclaim deeds shall contain covenants on the part of the said first parties and each of them to the effect that they, or either of them, have not at any time since June 30th, 1907, sold, conveyed, encumbered, released, abandoned or surrendered any right, title or interest in or to said lands, tenements, hereditaments, or any part thereof which they, or either of them, owned or claimed on June 30th, 1907; all of said conveyances must be executed and delivered prior to November 1st, 1907.

Said first parties hereby agree to transfer, convey and deliver to said second party on or before the first day of November, 1907, at said ranches, all of said cattle that it is possible to gather and deliver at said date through the exercise of reasonable diligence by said first parties; and all of the other property of

every name and description hereinbefore mentioned, excepting only any balance of said estimated lot of cattle which it is not possible for said first parties to deliver at that date through the exercise of reasonable diligence. Said transfers and conveyances to cover also the good will of the business now being conducted on said ranches, and all shares of the capital [337] stock of the corporation above referred to, engaged in raising buffalo and catalos, now owned and controlled by said first party, whether the par value of the same exceeds four thousand dollars or not; also to transfer all permits issued by any department of the United States Government and now held by said first parties authorizing the construction and maintenance upon any part of the public domain of pipe lines, houses, fences or other structures, and authorizing the running or grazing of cattle or live stock upon said public domain, or for any other purpose. All deliveries of personal property to be accompanied by good and sufficient bills of sale conveying title thereto to said second party, and all real property of every description to be made by deeds or transfers as hereinbefore stated, and transfers are to be accompanied with abstracts of title showing the condition of the title to each particular parcel of land, and especially showing that a good and unencumbered title to all of the patented lands and mining claims is vested in the parties of the first part or one of them.

And said party of the second part hereby agrees to organize or cause to be organized on or before November 1st, 1907, under the laws of the Territory of

Arizona, a corporation to be known as and named the Grand Canyon Cattle Company, which shall be authorized and empowered, among other things, to acquire, own and hold all of the properties hereinbefore mentioned and to conduct and operate said ranches and engage in the cattle business; and said second party further agrees immediately upon the transfer, conveyance and delivery to him of all of the properties of said first parties, to be transferred, conveyed and delivered to said second party on or before November 1st, 1907, as herein provided, to sell, assign, transfer and set over to said corporation all of said properties, also this contract and every right, title, interest, claim and demand which said second party may be entitled to hereunder in consideration of the issuance to him of all of the shares of the capital stock of said corporation, excepting only one share for each *number* of the Board of Directors of said corporation and the assumption by said corporation of all promises, and obligations to be performed by said second party subsequent to the first day of November, 1907, as herein provided.

And said second party hereby agrees to make payment of the purchase price to said first parties in the manner as follows: [338]

1. The sum of fifteen thousand (\$15,000) dollars on the signing and delivery of this agreement.

2. The sum of one hundred thousand (\$100,000) dollars upon the transfer, conveyance and delivery on or before November 1st, 1907, by said first parties to the second party of all the property herein provided to be transferred, conveyed and delivered on or

before said last mentioned date in the manner herein provided for the transfer of said properties.

3. The balance of said purchase price calculated upon the basis of fifty thousand (\$50,000) dollars for all of said properties other than said live stock, and the sum of sixteen dollars per head for all live stock delivered on or before November 1st, 1907, is to be paid by and through the execution and delivery to said first parties by said Grand Canyon Cattle Company of two promissory notes of said company in equal amounts, payable in one and two years after their dates, with interest at the rate of six (6) per cent per annum, which two notes shall be secured by mortgage of said corporation upon real and personal property hereby agreed to be conveyed to said second party. The live stock to be covered by said mortgage shall be described therein as all of the cattle, horses and mules located upon said ranch properties or the grazing grounds connected therewith and bearing a straight bar Z (\overline{Z}) brand, and no statement of the number or estimated number of said cattle, horses or mules shall be inserted in said mortgage.

In the event the whole of said estimated lot of cattle is not delivered on or before November 1st, 1907, said first party shall have the right to make additional deliveries of said cattle from time to time thereafter up to and including the first day of November, 1908; all said deliveries to be made at said ranches and in such manner as to enable said second party to count and tally brand all cattle so delivered, and in ascertaining the number of said cattle the

calves born after November 1st, 1907, are not to be counted, but are to be considered for all purposes as the property of said second party, or said Grand Canyon Cattle Company. All cattle so delivered in any quarter of said year ending November 1st, 1908, are to be paid for by said second party or said Grand Canyon Cattle Company at the end of said quarter at the rate of sixteen dollars per head either in cash or by the execution and delivery to said first parties by said second party or said Grand Canyon Cattle Company of two of its promissory notes in equal amounts, payable at the same dates as [339] the two other notes hereinbefore provided for, and drawing interest at the rate of six per cent per annum.

Said second party or said Grand Canyon Cattle Company shall on or after November 1st, 1908, become the owner of all cattle remaining in said Bar Z brand, and all horses belonging to said ranches, whether said cattle or horses have been delivered on said first day of November, 1908, or not by said first parties and paid for by said second party as provided or not, and shall upon said last named date become the owner of and entitled to enjoy all of the rights and privileges appertaining to and connected with the ownership of said brand of said stock connected with said ranching business.

Said first parties hereby agree at their sole cost and expense to complete the pipe lines now in course of construction leading from the House Rock Springs, One Mile Spring and Two Mile Spring to House Rock House and corral, and also to complete at their sole cost and expense the large tank to be located at

or near Jacob's Pool House, and the contract for the construction of which has already been made and let, and to complete at their sole cost and expense all other works and improvements on said ranches now under way and in course of construction.

Said first parties and each of them further promise and agree that they will not at any time after November 1st, 1907, and so long as either said second party or said Grand Canyon Cattle Company shall engage in the business of buying and selling, raising or grazing cattle or live stock in said counties of Coconino or Mohave, or either of them, conduct or carry on, or directly or indirectly assist in establishing, conducting or carrying on any similar business in either of said counties, or any county of the state of Utah bordering upon the North boundary line of the Territory of Arizona and west of the Colorado River.

It is mutually understood that all expenses growing out of the management and conduct of said ranches from this date to the first day of November, 1907, are to be borne by said first parties, and that upon said last named date either said second party or said Grand Canyon Cattle Company is to assume possession [340] of said ranches and thereafter bear all expenses connected with the management and conduct thereof.

And said parties of the first part hereby agree immediately upon the signing of this agreement to deliver to said second party all deeds, permits, leases and other evidences of right and title of every name and description covering said lands, tenements and hereditaments for the purpose of enabling said sec-

ond party to prepare proper instruments of transfer and assignment.

It is understood that all of the horses hereinbefore referred to are branded in the letter S brand, and that said first parties must deliver all of said horses to said second party on or before November 1st, 1907.

It is understood that all of the saddle, work, pack and trail horses and mules hereinbefore referred to shall be delivered on or before the first day of November, 1907, and as many of the branded range horses as it is possible, through the exercise of reasonable diligence, to deliver on or before said date; that the balance of the branded range horses undelivered may be delivered at any time before the first day of November, 1908, and paid for as hereinbefore provided.

And it is further understood that upon the date last mentioned, to wit, November 1st, 1908, said second party or said Grand Canyon Cattle Company, shall become vested with and entitled to all of the rights and privileges appertaining to the ownership of said brand, which is the capital letter S.

It is mutually understood and agreed that this contract is to operate in all respects as though made, executed and delivered on the 30th day of June, 1907, and that this contract is intended to cover and include all livestock located upon or constituting a part of either of said ranch properties on the date last named, excepting only a certain lot of about 1,200 steers, two years old and up, rendezvoused on or about the date last mentioned on said Cane-Bed Ranch for spring sales, and also all personal property of every description located upon or appertain-

ing to either of said ranch properties on said 30th day of June, 1907.

All property covered by this agreement must be transferred, assigned and delivered by said first parties to said second parties free and clear of any and all incumbrances, including all liens and taxes for the current fiscal year levied upon or in any manner chargeable against said property or any part thereof. [341]

It is understood and agreed that each of the times and dates hereinbefore specified for the performance of any act in this agreement provided to be performed on the part of either said first parties or said second party or said Grand Canyon Cattle Company, is of the essence of this agreement.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals the day and year first above written in this agreement.

HALEY & SAUNDERS. (Seal)

B. F. SAUNDERS. (Seal)

E. J. MARSHALL. (Seal)

In presence of:

FRANK PIERCE.

W. J. BARRETTE. [342]

**Defendant's Exhibit "C"—Agreement Dated
November 29, 1907.**

THIS MEMORANDUM, made the 29th day of November, nineteen hundred and seven, WITNESSETH:

That I, the undersigned, E. J. Marshall, for divers good and valuable considerations, including among

others the promise and undertaking on the part of the Grand Canyon Cattle Company, a corporation, to assume and fully perform each and every of my promises and undertakings contained in the certain contract of date July 30th, nineteen hundred and seven, and made by and between myself of the one part and Ora Haley and B. F. Saunders, copartners, doing business as Haley & Saunders, of the other part, and which said contract is hereto attached, which said promise and undertaking shall be implied from the acceptance of this assignment by said Grand Canyon Cattle Company, do hereby sell, assign, transfer and set over each and every right, title, interest, benefit or advantage secured to me in said contract or which I may be entitled to thereunder.

WITNESS MY HAND and seal the day and year first above written.

E. J. MARSHALL. [343]

**Defendant's Exhibit "D"—Abstract of Title to
Jacob Lode Mining Claim.**

**ABSTRACT OF TITLE TO JACOB LODGE MIN-
ING CLAIM.**

- To (1) Jacob Lode mining claim;
(2) Emmett Lode mining claim;
(3) Noonday Lode mining claim;
(4) Sunset Lode mining claim;
(5) Sunset Millsite;
(6) Kane Lode mining claim;
(7) Kane Millsite;
(8) Alaska Lode mining claim;
(9) Alaska Millsite;

- (10) Crane Lode mining claim;
- (11) Snipe Lode mining claim;
- (12) Frank Lode mining claim;

All situate, lying and being in the Warm Springs Mining District, in the County of Coconino, Territory of Arizona.

This abstract consists of copies of the following papers:

1. Location Notice Jacobs Lode mining claim, the same as set forth in Government's Exhibit 1.

2. Receiver's Receipt, Jacobs lode claim, dated November 3d, 1904.

3. Patent, United States to B. F. Saunders, Jacobs Lode mining claim, the same as set forth in Government's Exhibit No. 1.

4. Location Notice, Emmett Lode mining claim, the same as set forth in Government's Exhibit No. 11.

5. Receiver's Receipt Emmett Lode mining claim, dated March 23d, 1906.

6. Patent, United States to B. F. Saunders, Emmett Lode mining claim, the same as set forth in Government's Exhibit No. 11.

7. Location notice Noonday unpatented mining claim, located February 18th, 1904, by B. F. Saunders. Recorded March 1st, 1904, Book 5 of Mines, page 357, Records of Coconino County, Arizona. Locates 1500 feet in length by 600 feet in width of ground situated in North Fork or Dry Canyon, on Buckskin Mountains, about five miles southeast of Three Lakes and ten miles south of Jacobs Lake in Warm Springs mining district, Coconino County, Arizona.

8. Location Notice Noonday Lode, same as set forth in Government's Exhibit No. 10. [344]

9. Receiver's Receipt Noonday Lode, dated June 21st, 1908.

10. Patent, United States to B. F. Saunders, Noonday Lode, same as set forth in Government's Exhibit No. 10.

11. Location Notice Sunset Lode, same as set forth in Government's Exhibit No. 2.

12. Receiver's Receipt, Sunset Lode and millsite, dated December 21, 1905.

13. Patent, United States to B. F. Saunders, Sunset Lode and Millsite, same as set forth in Government's Exhibit No. 2.

14. Notice of Location of Kane Lode mining claim, located February 13th, 1904, by B. F. Saunders, Recorded March 1st, 1904, Book 5 of Mines, page 359, Records of Coconino County, Arizona. Locates 1500 feet in length by 600 feet in width on ground situated in Kane Canyon about one and one-half miles from its mouth in the Warm Springs mining district, Coconino County, Arizona.

15. Receiver's Receipt, Kane Lode and Kane Millsite, dated December 19th, 1905.

16. Location Notice Kane Millsite locates area of five acres in Kane Canyon about one mile from the mouth of said canyon in Warm Springs mining district, Coconino County, Arizona.

17. Location Notice of Alaska Lode mining claim, located February 17th, 1904, by B. F. Saunders, recorded March 1st, 1904, Book 5, of Mines, page 361, Records of Coconino County, Arizona. Locates 800

feet in length by 600 feet in width of ground situated on the Buckskin Mountain, about one mile south of Three Lakes, Warm Springs mining district, Coconino County, Arizona.

18. Location Notice of Alaska Millsite, located February 17th, 1904, by B. F. Saunders, recorded March 1st, 1904, Book 1 of Millsites and Water Rights, page 441, Records of Coconino County, Arizona. Locates not exceeding five acres situated on the Buckskin Mountains, about one mile west of Three Lakes in the Warm Springs mining district, Coconino County, Arizona.

19. Location Notice, Crane Lode mining claim, located February 18, 1904, by B. S. Saunders, Recorded March 1, 1904, Book 5 of Mines, page 356, Records of Mines, Coconino County, Arizona. Locates 1500 feet in length by 600 feet in width of ground situated in North Fork of dry canyon on the Buckskin Mountain, about fifteen miles south of Jacobs Lake in the Warm Springs mining district, Coconino County, Arizona. [345]

20. Location Notice Snipe lode mining claim, located February 17th, 1904, by B. F. Saunders, Recorded March 1, 1904, in Book 5 of Mines, Records of Coconino County, Arizona, page 358. Locates 1500 feet in length by 600 feet in width of ground situated on Buckskin Mountain in North Fork of Dry Canyon about five miles southwest from Three Lakes and ten miles from Jacobs Lake in the Warm Springs mining district, Coconino County, Arizona.

21. Location Notice of Frank Lode mining claim, Located February 18th, 1904, by B. F. Saunders,

Recorded March 1st, 1904, in Book 5 of Mines, page 355, Records of Coconino County, Arizona. Locates 1500 feet in length by 600 feet in width of ground situated on Buckskin Mountain in North Fork of Dry Canyon twelve miles southwest of Jacobs Lake in the Warm Springs mining district, Conconino County, Arizona. [346]

Defendant's Exhibit "E"—Agreement Dated July 30, 1907.

MEMORANDUM OF AGREEMENT Made by and between Ora Haley of Laramie, Wyoming, and B. F. Saunders of Salt Lake City, Utah, copartners as Haley & Saunders, parties of the first part, and E. J. Marshall and Grand Canyon Cattle Company, a corporation, under the laws of the State of California, of Los Angeles, California, parties of the second part, WITNESSETH:

THAT, WHEREAS, the said first parties and the said E. J. Marshall heretofore entered into a written contract dated July 30th, 1907, for the sale by said first parties and the purchase by the said second parties of certain real and personal property in said agreement set forth and described and upon certain terms and conditions therein set forth; and

WHEREAS, since said date, and prior to the making of this agreement, the said first parties and the said second parties (the said Grand Canyon Cattle Company being the assignee of the said E. J. Marshall) have modified and changed the terms of said agreement and heretofore have caused the same to be fully executed by the transfer, assignment and

delivery by said first parties and the conveyance of full title of and to all the property, real and personal, by said first parties to be sold, assigned and delivered, and by the payment and execution of obligation for payment by said second party of the full purchase price for the property so conveyed, assigned and transferred to it,

NOW, THEREFORE, it is agreed that the said contract of July 30th, 1907, hereinbefore referred to is hereby fully abrogated and discharged and the provisions thereof fully executed.

And it is hereby further agreed by said parties of the first part for and in consideration of the payment to them of the consideration in money now received, and in consideration of the obligations for payment by them received and they do hereby bind themselves and covenant that they will not at any time hereafter and so long as either of the said parties of the second part shall engage in the business of buying, selling, raising or grazing cattle or livestock in the Counties of Coconino and Mohave, or either of them, in the Territory [347] of Arizona, conduct or carry on or directly or indirectly assist in establishing, conducting or carrying on the business of buying, selling, raising or grazing cattle in either of said counties or in any county of the State of Utah bordering upon the north boundary line of the Territory of Arizona and west of the Colorado River.

IN WITNESS WHEREOF the parties hereto have set their hands and the said Grand Canyon

Cattle Company has caused its seal to be affixed the day and year above written.

GRAND CANYON CATTLE COMPANY.

By E. J. MARSHALL,
President.
ROBT. BULTMAN,
Secretary.

ORA HALEY.

B. F. SAUNDERS. [348]

United States of America,
District of Arizona,—ss.

I, William H. Sawtelle, United States District Judge, for the District of Arizona, and the Judge before whom the foregoing entitled cause was tried, do hereby certify that I have examined the foregoing statement of the evidence and find the same to be true, complete and properly prepared, and same is hereby approved. And I do certify that said statement contains all of the evidence offered or received at the trial of this cause, and shows all the proceedings had at the trial and contains all the documentary evidence, except formal and immaterial parts of certain exhibits, and except also certain exhibits consisting of maps, drawings and photographs, the originals of which, by stipulation of the parties are to be forwarded to the United States Circuit Court of Appeals for the Ninth Circuit.

WITNESS my hand this 27 day of November,
A. D. 1916.

WM. H. SAWTELLE,
United States District Judge. [349]

[Endorsements]: No. E-49-Phoenix. In the District Court of the United States for the District of Arizona. United States of America, Plaintiff, vs. B. F. Saunders et al., Defendants. Statement of Evidence. Service of the within admitted this 25th day of April, 1916. O'Melveny, Stevens & Millikin and Kibbey, Bennett & Curtis, Solicitors for Defendant, Grand Canyon Cattle Co. Lodged with the Clerk this 25th day of April, A. D. 1916, at Phoenix, Ariz. Mose Drachman, Clerk. By R. E. L. Webb, Deputy. Filed Nov. 27, 1916, at — M. Mose Drachman, Clerk. By R. E. L. Webb, Deputy. [350]

*In the District Court of the United States for the
District of Arizona.*

No. —.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

B. F. SAUNDERS et al.,

Defendants.

Answer.

THE ANSWER OF THE GRAND CANYON CATTLE COMPANY, ONE OF THE DEFENDANTS, TO THE AMENDED BILL OF COMPLAINT OF THE UNITED STATES IN THE ABOVE-ENTITLED CAUSE.

This defendant, the Grand Canyon Cattle Company, now and at all times hereafter saving to itself all and all manner of benefit or advantage of excep-

tion or otherwise that can or may be had or taken to the many errors, uncertainties, and imperfections in the said amended bill contained, for answer thereto, or for so much thereof as this defendant is advised it is material or necessary for it to make answer to, answering says:

I.

That it does not know and cannot set forth as its belief or otherwise, whether or not it is true as alleged in paragraph one of plaintiff's amended bill of complaint herein, that on and prior to the 24th day of October, 1901, the plaintiff was the owner in fee simple, as a part of its public domain, of the premises described in said paragraph, or whether or not the defendant B. F. Saunders located said land under the mining laws of the United States contained in Title 32, Chapter 6 of the Revised Statutes as amended, or whether or not on August 8th, 1904, the said B. F. Saunders filed in the plaintiff's local land office at Phoenix, Arizona, his application for a [351] patent for said tract, or whether or not the said B. F. Saunders alleged and represented in his said application that said premises contained gold and silver, and that he had made mining improvements thereon to the value of five hundred and fifty (\$550) dollars; or whether or not the said B. F. Saunders subsequently filed in plaintiff's said local land office his application to purchase said tract of land and paid the fees and purchase price required by law. But this defendant admits that thereafter on the 18th day of March, 1907, a United States patent was issued to said B. F. Saunders conveying to him

the legal title to the land described in said paragraph one.

II.

And this defendant, further answering said amended complaint, states that it does not know and has no sufficient information on which to found a belief or otherwise, whether or not it is true, as alleged in paragraph two of plaintiff's amended bill of complaint, that on and prior to the 27th day of June, 1905, the plaintiff was the owner in fee simple, as a part of its public domain, of the lands described in said paragraph two of said amended complaint, or whether or not on said date, or at all, the defendant B. F. Saunders located said last mentioned land under the mining laws of the United States and designated the same as "Emmett Lode" claim, or whether or not the said B. F. Saunders filed in plaintiff's local land office at Phoenix, Arizona, his application for a patent for said tract of land wherein he alleged and represented that the same contained gold, silver, copper, lead and other valuable minerals, and that he had made mining improvements thereon to the value of five hundred (\$500) dollars, or whether or not the said defendant B. F. Saunders thereafter made his application to plaintiff to purchase said land. But this defendant admits that on October 20th, 1906, a United States patent was issued by the plaintiff to the said B. F. [352] Saunders conveying to him the legal title to said land described in paragraph — of said amended complaint.

III.

Further answering said amended bill of complaint, this defendant alleges that it has no knowledge or information upon which to found a belief whether or not it is true as alleged in paragraph three of said amended bill of complaint that on and prior to the 27th day of June, 1905, the plaintiff was the owner in fee simple as a part of its public domain of the lands described in said paragraph, or whether or not on said date, or at all, the said B. F. Saunders located said land under the mining laws of the United States and designated the same as "Noonday" Lode claim, or whether or not on March 23d, 1906, or at all, said B. F. Saunders filed in plaintiff's local land office at Phoenix, Arizona, his application for a patent for said tract of land wherein he alleged and represented that the same contained gold, silver, copper, lead and other valuable minerals, and that he had made mining improvements thereon to the value of six hundred (\$600) dollars. But this defendant admits that on June 22d, 1907, a patent of the United States was issued to said B. F. Saunders conveying to him the title to the said land, described in said paragraph three of the amended bill of complaint herein.

IV.

Further answering said bill of complaint, this defendant states that it does not know and has no knowledge or information sufficient to found a belief, or otherwise whether or not it is true, as alleged in paragraph four of said amended bill of complaint, that on and prior to February 15th, 1904, the plain-

tiff was the owner in fee simple, as a part of its public domain, of the two certain tracts of land described in said paragraph four, or whether or not the said B. F. Saunders located the said tracts of land last mentioned under the mining [353] laws of the United States, designating one of said tracts as "Sunset Lode" claim and the other of said tracts as "Sunset Mill Site"; or whether or not on September 20th, 1905, or at all, the said B. F. Saunders filed in the local land office at Phoenix, Arizona, his application for patent for said tracts of land wherein he alleged and represented that the said "Sunset Lode" claim contained gold, silver, copper, lead and other valuable minerals, and that he had made mining improvements thereon to the value of eight hundred and fifty (\$850) dollars, or whether or not the said B. F. Saunders subsequently filed in said local land office his application to purchase said tracts of land, or whether or not the said B. F. Saunders filed an affidavit executed by himself and two witnesses procured by him, wherein it was alleged that the "Sunset Millsite" was used and occupied by said B. F. Saunders for mining purposes, to wit, the storage of ore from the "Sunset Lode" claim for milling purposes. But this defendant admits that on the 6th day of June, 1906, a United States patent was issued to the said B. F. Saunders conveying to him the legal title to the two said tracts of land described in paragraph four of said amended bill of complaint.

V.

Further answering plaintiff's amended bill of

complaint herein, this defendant specifically denies that any representations made by the said defendant B. F. Saunders to the plaintiff or any of its officers for the purposes of securing title to any of the premises described in the plaintiff's said amended bill of complaint, if such representations were so made by said B. F. Saunders, were false or fraudulent or untrue or were made by the said B. F. Saunders for the purpose of deceiving the officials of the plaintiff's land department without belief on the part of the said B. F. Saunders that the said statements and representations were true. And this defendant denies that [354] the lands so alleged to have been located and entered as lode claims were not mineral lands and did not and do not bear gold, silver, copper, lead or other valuable minerals, and denies that at the time of the filing of said applications to purchase the same and for a patent therefor, no gold, silver, copper, lead or other valuable mineral had been discovered on said lands, and denies that said lands, if so located, applied for and entered as lode claims by said B. F. Saunders, were not located and entered by said B. F. Saunders for mining purposes or because of minerals therein, and denies that the said "Sunset Mill Site" was not occupied and used by the said B. F. Saunders for mining purposes for the storage of ore from the said "Sunset Lode" claim and other claims, and denies that said lands or any of them designated in said amended bill of complaint as lode claims and the tract therein described as a mill site were located, applied for and entered by said B. F. Saunders for the purpose of

obtaining exclusive possession, enjoyment and control of springs of water existing thereon, and denies that the said B. F. Saunders had not expended the respective sums alleged in said amended bill of complaint to have been expended by him in making improvements on said lands, and denies that no mining improvements had been made upon said

*This insertion made by leave of Court on Jan. 11, 1915. George W. Lewis, Clerk.

land by said B. F. Saunders for mining purposes. *And denies that no mining improvements had been made on said lands or any of them by said B. F. Saunders or anyone on his behalf were made for the purpose of developing the said water supply and not for mineral or mining purposes.*

VI.

Further answering the plaintiff's amended complaint, this defendant says: That it admits that on, to wit, the second day of December, 1907, the said B. F. Saunders executed a deed conveying the title to the lands described in said plaintiff's amended bill of complaint as "Jacob Lode Claim" and "Emmett Lode Claim," to this defendant, the Grand Canyon Cattle Company, and admits that on, to wit, the 5th day of December, 1907, the said B. F. Saunders executed a deed conveying the title to the land described in said amended bill of complaint as the "Noonday [355] Lode Claim," the "Sunset Lode Claim" and the "Sunset Mill Site" to this defendant, the Grand Canyon Cattle Company. But this defendant specifically denies that at the time of the execution of said deeds and prior to any contract or agreement to purchase said lands or any part

thereof from said B. F. Saunders, or at any time or in any manner whatever, it was notified and informed of the said illegal methods and proceedings or any illegal methods and proceedings by means of which the said B. F. Saunders had acquired plaintiff's patents for said lands, and denies that at said times or at any time this defendant knew of any false or fraudulent methods and proceedings were or had been adopted or practiced by the said B. F. Saunders for the purpose of acquiring the title to said lands from said plaintiff, but alleges the facts to be that it purchased the premises described in the plaintiff's bill of complaint from the defendant, B. F. Saunders for a valuable consideration, in good faith, without any knowledge or notice whatever of any fraudulent, irregular or improper means by which the title to said premises had been obtained by said B. F. Saunders, if any such improper, irregular or fraudulent means for said purpose had been employed by said B. F. Saunders; that it took the title to said premises from said B. F. Saunders relying upon the record title thereto as exhibited and shown to it by the record of the patents from the plaintiff, the United States, to the said B. F. Saunders, and not otherwise.

And this defendant, further answering, denies that the plaintiff was misled and deceived by any false, fraudulent and untrue representations and statements made to it by said B. F. Saunders, and that it was thereby induced to allow the said B. F. Saunders to make entry of said premises and to cause the patents above described to be issued thereon. [356]

VII.

And this defendant denies that it took the title to said premises from the said B. F. Saunders with any fraudulent purpose or intention whatever, without this, that there is any other matter, cause or thing in said plaintiff's said amended bill of complaint contained, material or necessary for this defendant to make answer unto, and not herein or hereby well and sufficiently answered, confessed, traversed and avoided or denied, is true to the knowledge or belief of this defendant; all which matters and things this defendant is ready and willing to aver, maintain and prove as this Honorable Court shall direct, and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

O'MELVENY, STEVENS & MILLIGAN,
KIBBEY, BENNETT & BENNETT,
Attorneys and Solicitors for the Defendant the
Grand Canyon Cattle Co. [357]

[Endorsements]: No. 49. In the District Court of the United States for the District of Arizona. The United States of America, Plaintiff, vs. B. F. Saunders et al., Defendants. Answer of the Defendant Grand Canyon Cattle Company. Service of a copy of the within Answer is hereby acknowledged this 9th day of January, 1913. O. T. Richey, Asst. U. S. Atty., Atty. for Plaintiff. O'Mulveny, Stevens & Millikin, Kibbey, Bennett & Bennett, Attorneys and Counselors for Grand Canyon Cattle Company. Filed Jan. 9, 1913, at — M. Allan B.

Jaynes, Clerk. By Frank E. McCreary, Deputy.
[358]

*In the District Court of the United States, for the
District of Arizona.*

No. 49—IN EQUITY.

THE UNITED STATES OF AMERICA,
Plaintiff,
vs.

B. F. SAUNDERS et al.,
Defendants.

Replication.

REPLICATION OF THE PLAINTIFF TO THE
ANSWER OF THE DEFENDANT, GRAND
CANYON CATTLE COMPANY, IN THE
FOREGOING ENTITLED CAUSE.

And now comes The United States of America, by the Attorney General, and replying to the answer filed in the above cause, says that, saving and reserving all manner of exceptions to the insufficiency of the answer, for replication thereto doth say that its bill is true and sufficient as averred, and that he is ready to prove it, and that the answer of the defendant is untrue and insufficient.

WHEREFORE, plaintiff prays relief as set forth in its amended bill.

GEO. W. WICKERSHAM,
Attorney General of the United States.

J. E. MORRISON,
United States Attorney for the District of Arizona.

[Endorsements]: #49. District Court United
States District of Arizona. United States vs. B. F.

Saunders et al. Replication. Copy of within received this January 14th, 1913. Kibbey, Bennett & Bennett, Solicitors for Defendant Grand Canyon Cattle Company. Filed January 14, 1913, at 2 P. M. Allan B. Jaynes, Clerk. By Francis D. Crable, Deputy. [359]

In the United States District Court for the District of Arizona.

IN EQUITY—No. E-49 (PHOENIX).

THE UNITED STATES OF AMERICA,

Complainant,

vs.

B. F. SAUNDERS and THE GRAND CANYON
CATTLE COMPANY,

Respondents.

Memorandum Opinion.

Hon. JAMES M. SHERIDAN, Special Assistant to the Attorney General, Los Angeles, California;
Hon. THOMAS A. FLYNN, United States Attorney for the District of Arizona, Phoenix, Arizona; and

Hon. SAMUEL L. PATTEE, Assistant United States Attorney for the District of Arizona, Tucson, Arizona;

Solicitors for Complainant.

Messrs. O'MULVENY, STEVENS & MILLIKIN,
Los Angeles, California; and

Messrs. KIBBEY, BENNETT & BENNETT,
Phoenix, Arizona;

Solicitors for Respondents.

This is a suit in equity brought by the Government

against B. F. Saunders and The Grand Canyon Cattle Company to cancel patents issued to said Saunders for three certain alleged mineral claims and one mill site, situated in Kaibab National Forest, in Coconino County, Arizona, and by said Saunders conveyed to said Grand Canyon Cattle Company.

The bill alleges the location by Saunders, under the mining laws of the United States of said lode claims and mill site, the filing in the local land office of his application for a patent therefor, wherein he alleged and represented that the said respective tracts of land located as lode claims contained gold and silver and other valuable minerals, and that said mill site was by him used and occupied for mining purposes, to wit, the storing of ore from one of said lode claims for milling purposes, and the issuance to said Saunders of patents conveying to him the legal title to said several tracts of land. [360]

The bill further alleges "that the representations so made by the said B. F. Saunders were and are wholly false, fraudulent and untrue, and were made by the said B. F. Saunders for the purpose of deceiving the officials of the plaintiff's (complainant's) land department without any belief on the part of the said B. F. Saunders that the said statements and representations, or any of them, were true; that in truth and in fact the said lands located and entered as lode claims were not and are not mineral lands, and did not and do not bear gold, silver, copper, lead, or any other valuable mineral; that at the time of the filing of the said applications to purchase, no gold, silver, copper, lead or other valuable

mineral had been discovered on said lands, or any of them, nor has any been discovered since; that the said lands so located, and applied for and entered as lode claims were not so located, applied for and entered by the said B. F. Saunders for mining purposes or because of any minerals therein, and the said Sunset Mill site was not occupied and used by the said B. F. Saunders for mining purposes, for the storage of ore from the said Sunset lode claim, or any other claim, but all of said lands, those designated as lode claims, as well as the tract designated as a mill site, were so located, applied for and entered for the sole purpose of obtaining the exclusive possession, enjoyment and control of valuable springs of water existing thereon, and the said B. F. Saunders has not expended the respective sums alleged to have been expended by him, or any sum of money, in making mining improvements on said lands, and had made no mining improvements whatever on the same, the [361] only improvements made on said lands or any of them by the said B. F. Saunders, or any one in his behalf, were made for the purpose of developing the said water supply and not for mineral or mining purposes"; that complainant was misled and deceived by the false and fraudulent statements so made by Saunders, and because of such deceptions, was induced to allow said entries, and to cause the said patents to be issued thereon; that subsequently Saunders executed deeds conveying the legal title to the several tracts of land to said Grand Canyon Cattle Company, and that said company, "at the time of the execution of said

deed, and prior to any contract or agreement to purchase said lands or any part thereof from said Saunders, was fully notified and informed of said illegal methods and proceedings by means of which said Saunders had acquired complainant's patents to said lands."

Saunders, one of the respondents, died several years prior to the date of the filing of the suit. The Grand Canyon Cattle Company answered disclaiming all knowledge of the alleged fraud on the part of Saunders, and setting up that it was a *bona fide* purchaser without notice for value, after the issuance by the Government to Saunders of the said patents.

Two questions only are here presented:

First, was the title to the property in question fraudulently obtained by Saunders from the Government?

Second, was the Grand Canyon Cattle Company a *bona fide* purchaser thereof for value?

With regard to the first question, I have no difficulty in holding that the respondent Saunders was guilty [362] of at least legal fraud, and if this were an action solely between the Government and Saunders a decree would be entered in behalf of the former.

With regard to the allegations of the bill of complaint respecting knowledge or notice by the Grand Canyon Cattle Company of the illegal methods and proceedings of Saunders by means of which he acquired or obtained patents to said property, I am of the opinion that there is an utter failure to estab-

lish such allegations, and I find that said Grand Canyon Cattle Company at no time prior to the date of the delivery of the deed and the payment of the consideration, which was *bona fide*, had any actual knowledge or notice of the alleged fraud or illegal methods of Saunders, or of facts sufficient to put it on inquiry, and that the defense of a *bona fide* purchaser for value without notice has been fully met and proved.

The governing principles in cases of this character, as repeatedly set forth in the decisions of the Supreme Court of the United States, are so well established that it would seem unnecessary to restate them here. These principles are clearly enunciated in the following cases:

Diamond Coal Company v. United States, 233 U. S. 236;

Maxwell Land Grant Case, 121 U. S. 325, 379-381;

United States vs. Iron Silver Mining Company, 128 U. S. 673, 676;

United States vs. Stinson, 197 U. S. 200, 204-205;

Colorado Coal Company v. United States, 123 U. S. 307, 313;

United States v. Detroit Lumber Company, 200 U. S. 321;

United States v. Clark, 200 U. S. 601, 608.

A decree will be entered in accordance with this memorandum opinion.

WM. H. SAWTELLE,
Judge of the United States District Court for the
District of Arizona. [363]

[Endorsements]: No. E-49—(Phoenix). In the United States District Court for the District of Arizona. The United States of America, Complainant, vs. B. F. Saunders and The Grand Canyon Cattle Company, Respondents. In Equity. Memorandum Opinion. Filed Apr. 28, 1915. George W. Lewis, Clerk. By R. E. L. Webb, Deputy. [364]

*In the District Court of the United States, for the
District of Arizona.*

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

B. F. SAUNDERS, GRAND CANYON CATTLE
COMPANY, a Corporation, and ORA
HALEY,

Defendants.

Decree.

This cause came on to be heard at the October, 1914, term of this court. Evidence was introduced on behalf of both plaintiff and defendant, Grand Canyon Cattle Company.

After hearing the arguments of counsel for plaintiff and defendant, the Court took the matter under advisement.

And now at this April, 1915, term of this court, the Court having considered the evidence and being fully advised in the premises, it is Ordered, Adjudged and Decreed, that the plaintiff's bill of com-

plaint herein, be and hereby is dismissed upon the merits.

Dated this 28th day of April, 1915.

WM. H. SAWTELLE,

Judge.

[Endorsements]: No. 49. In the District Court of the United States for the District of Arizona. The United States of America, Plaintiff, vs. B. F. Saunders, Grand Canyon Cattle Company, a Corporation, and Ora Haley, Defendants. Decree. Filed Apr. 28, 1915. Geo. W. Lewis, Clerk. By R. E. L. Webb, Deputy. [365]

*In the District Court of the United States, for the
District of Arizona.*

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

B. F. SAUNDERS, GRAND CANYON CATTLE
COMPANY, a Corporation, and ORA
HALEY,

Defendants.

Notice of Entry of Decree.

To the Above-named Plaintiff and Its Attorneys and
Each of Them:

You are hereby notified that the Court has made and caused to be entered its decree in the above-entitled cause, in favor of the defendant Grand Canyon Cattle Company and against the plaintiff and dismissing the bill of complaint therein.

Dated May 3, 1915.

O'MELVENY, STEVENS & MILLIKIN,
KIBBEY, BENNETT & BENNETT,
Attorneys for Defendant Grand Canyon Cattle
Company. [366]

[Endorsed]: No. 49—In Equity. In the District Court of the United States, for the District of Arizona. The United States of America, Plaintiff, vs. B. F. Saunders, Grand Canyon Cattle Company, a Corporation, and Ora Haley, Defendants. Notice. Received copy of the within notice, this 6th day of May, 1915. Thomas A. Flynn, Attorney for Plaintiff. Filed May 7, 1915 at — M. George W. Lewis, Clerk. By. R. . L. Webb, Deputy. [367]

COPY.

*In the District Court of the United States for the
District of Arizona.*

No. E-49—PHOENIX.

THE UNITED STATES OF AMERICA,
Plaintiff,

vs.

B. F. SAUNDERS, GRAND CANYON CATTLE
COMPANY, a Corporation, and ORA
HALEY,

Defendants.

Petition for Appeal.

Comes now The United States of America, plaintiff in the above-entitled cause, by Thomas A. Flynn,

United States Attorney for the District of Arizona,
and respectfully shows:

That on the 28th day of April, 1915, the final decree of this Court in this cause was rendered and entered, wherein and whereby it was ordered, adjudged and decreed that the said plaintiff's bill of complaint be dismissed on the merits.

That neither B. F. Saunders nor Ora Haley, named as defendants in said bill of complaint, were ever served with process or appears in this cause in any manner whatever, and neither of said last-named persons is affected by nor interested in sustaining said decree, and that said B. F. Saunders died long prior to the commencement of this suit.

That the said United States of America, conceiving itself aggrieved by the said final decree, appeals from the final decree of this court in this cause, rendered and entered on the 28th day of April, 1915, to the United States Circuit Court of Appeals for the Ninth [368] Circuit, and that a transcript of the record and proceedings in this cause, duly authenticated, may be sent to the said United States Circuit Court of Appeals for the Ninth Circuit.

THOMAS A. FLYNN,

United States Attorney for the District of Arizona,
Solicitor for Plaintiff.

Order Allowing Appeal.

And now, to wit, on October 26th, 1915, it is ordered that the appeal be allowed as prayed in the foregoing petition.

WM. H. SAWTELLE,

United States District Judge, District of Arizona.

[Endorsements]: No. E-49—Phoenix. In the District Court of the United States for the District of Arizona. United States of America, Plaintiff, vs. B. F. Saunders, Grand Canyon Cattle Company, a Corporation, and Ora Haley, Defendants. Petition for Appeal and Order Allowing Appeal. Filed Oct. 26, 1915. George W. Lewis, Clerk. [369]

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

THE UNITED STATES OF AMERICA,

Appellant,

vs.

B. F. SAUNDERS, GRAND CANYON CATTLE
COMPANY, a Corporation, and ORA
HALEY, Defendants, GRAND CANYON
CATTLE COMPANY, a Corporation,

Appellee.

Assignment of Errors.

Comes now The United States of America, by Thomas A. Flynn, United States Attorney for the District of Arizona, and says that in the record and proceedings in this cause in the District Court of the United States for the District of Arizona, as well also in the decree rendered and entered in said District Court on the 28th day of April, 1915, there is manifest error, to the great prejudice of the United States of America, in this, to wit:

1. The District Court of the United States for the District of Arizona erred in sustaining the objection of the defendant Grand Canyon Cattle Com-

pany to the following question asked the witness Howard B. Young, in his deposition, viz.: "So, now, Mr. Young, as I understand you, at the time this mining work was being done on the Jacobs lode by yourself and David Rider under the direction of Mr. Neill, you were receiving \$35 per month as a hand on that ranch and so was David Rider?" and in excluding the answer of the witness to said question, "Yes, sir."

2. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness Howard B. Young, in his deposition, to wit: "Did he say to you at the time this open cut was being [370] done on the Jacobs Lode that it was for mining assessment?" and in excluding the answer of the witness to said question: "Well, I don't remember now just what he said. That was the understanding I got."

3. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness Howard B. Young, in his deposition, viz.: "And that the purpose of it was, as you have testified, to hold the property for stock watering purposes?" and in excluding the answer of the witness to said question, viz.: "Yes, sir."

4. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness Howard B. Young, in his deposition, viz.: "What did Mr. Dimmick say to you, if anything,

when he brought this affidavit to you to sign?" and in excluding the answer of the witness to said question, viz.: "He asked me if I would sign an affidavit that I had done work on that claim, and I told him yes."

5. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following asked the witness Howard B. Young, in his deposition, viz.: "Did you, at the time you signed the affidavit, know what the purpose of it was?" and in excluding the answer of the witness to said question, viz.: "Well, the purpose was to hold these claims as watering places."

6. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness Howard B. Young, in his deposition, viz.: "Now, it says in this affidavit, Mr. Young, that the labor and improvements made on the Sunset lode and Sunset millsite by the applicant, and by his grantors, exceeds \$500 in value. Did you at the time you signed this affidavit, or at any time, know that [371] \$500 worth of work had been done by anybody on the Sunset lode and Sunset millsite?" and in excluding the answer of said witness to said question, viz.: "No, sir."

7. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness Howard B. Young, in his deposition, viz.: "Now, was there any conversation at the time you signed this final oath for surveys between you and Dim-

mick concerning the purpose of this affidavit?" and in excluding the answer of the witness to said question, viz.: "No, sir."

8. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness Howard B. Young, in his deposition, viz.: "You do not remember whether you did or not?" and in excluding the answer to said question, viz.: "No, sir. He made a brief statement of what the affidavits were and wanted to know if I would sign them. I told him yes. I don't remember reading the affidavits over."

9. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness Hinton Siler, in his deposition, viz.: "What pay did you receive for this work?" and in excluding the answer of the witness to said question, viz.: "Thirty-five dollars a month."

10. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness Hinton Siler, in his deposition, viz.: "During the time that you were doing this water development work, at all these different points concerning which you have testified, under Mr. Crosbie's immediate direction, and under the final direction of Mr. Dimmick, in every instance, did you have any conversation [372] with Mr. Dimmick at any time about the purpose of this work?" and in excluding the answer of the witness to said question, viz.: "Noth-

ing, only that he was doing it to let the water into the tunnels so that he could pipe it out. He so stated the case to me."

11. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness John T. Little, in his deposition, to wit: "Did you know of it being a watering place before the Saunders people got hold of it?" and in excluding the answer of the witness to said question, viz.: "Yes."

12. The said District Court erred in sustaining the objection asked the witness W. L. Walker, in his deposition, viz.: "In observing these cabins, and from such present recollection that you have of them, what did they appear to be, or to have been, used for?" and in excluding the answer of the witness to said question, viz.: "They had been used for residences for those working at the sawmill, or for cowboys during such times as they quartered themselves over night at the sawmill."

13. The said District Court erred in granting the motion of the defendant Grand Canyon Cattle Company to strike out the answer of the witness W. L. Walker to the following question, "How do you account for the presence of this copper-stained rock that you saw near the cut?" which answer so stricken out reads as follows: "After a very careful examination of the rock in place in the cut, and knowing the presence of copper-bearing rock at a point a half a mile or more to the west of Jacobs lake, the conclusion that arose in my mind was that very probably this copper-stained float which I noticed at the cut

had been by some means or other probably dropped at this point, having had its origin in known mineral exposure that I have mentioned a half mile west of [373] the Jacobs lode. This was also based on the fact that on the road running through Jacobs lode at another point I observed a small piece of similar copper-stained rock—a piece of float right on the surface of the road, which gave indications of having been dropped there by man or from a wagon or some other method of conveyance, from its original site in a mineral deposit a half mile or more west of the Jacobs lode,” and in excluding said answer from the evidence.

14. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness W. L. Walker, in his deposition, viz.: “Then please give us a little more information, if you can, as to what was the apparent true purpose of this excavation?” and in excluding the answer of the witness to said question, viz.: “This shaft stands in the basin portion of the lode very close to the edge of the lake. The only useful purpose that it appeared to have served was the possible one of use for well purposes. That is, standing close to the edge of the lake, the lake waters percolating into this excavation, might serve as better water for culinary purposes than the water of the lake which was used for the stock. However, so far as appearances showed the excavation might have been dug simply as an attempt to perform assessment work on the mining claim.”

15. The said District Court erred in sustaining the

objection of the defendant Grand Canyon Cattle Company to the following question asked the witness W. L. Walker, in his deposition, viz.: "Have you with you any records from which you could give us the results of the assays? Now, I direct my question to rock in place on the claims under consideration?" and in excluding the answer of the witness to said question, viz.: "Yes, I have an assay certificate showing the results of three samples taken from the Jacobs lode." [374]

16. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the assay certificate, Government's Exhibit No. 22, set forth in the evidence in this cause, and in excluding said certificate from the evidence.

17. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness Joseph Jensen, in his deposition, viz.: "Did it have the appearance of having been abandoned?" and in excluding the answer of the witness to said question, viz.: "It appeared not to have been used for a long time and it was not in a state of repair suitable for use."

18. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness Edgar L. Clarke, in his deposition, viz.: "Now, directing your attention especially to this Bessie Horn mining claim, what was it that caused Mr. Saunders to have a mining claim made on that piece of ground?" and in excluding the answer of the witness

to said question, viz.: "To secure a watering place for livestock."

19. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness Edgar L. Clarke, in his deposition, viz.: "And was it Mr. Saunders' purpose in locating these claims to secure water for stock watering purposes?" and in excluding the answer of the witness, as follows: "Of course that refers to the ones I assisted in locating?" Q. "Surely." A. "Yes, sir."

20. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness Edgar L. Clarke, in his deposition, viz.: "Well, then, for the purpose of making matters clearer, I will frame [375] the question in a different way. Is it true that all of the claims concerning which you now have a distinct recollection of having assisted in locating, were located by Mr. Saunders for the purpose of securing watering places for the stock of Saunders and Haley on the Buckskin Mountain ranch?" and in excluding the answer of the witness to said question, viz.: "Yes, sir."

21. The said District Court erred in excluding all evidence relating to the cost or value of the work done on the four patented claims involved in this suit, and in ruling that evidence respecting such cost or value was not admissible.

22. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness

John T. Breckon, in his deposition, viz.: "Now, will you give us in your own way just how it was that you computed the value of the development work done on this claim?" and in excluding the answer of the witness to said question, viz.: "The open cut was the one mentioned before at the discovery, and was estimated in the usual way. A tunnel in hard rock is estimated from \$10 to \$12 per foot; an open cut is estimated according to the depth of it; and the shaft that was partly covered with water—partly filled with water from the lake.

23. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness John T. Breckon, in his deposition, viz.: "What did you have to guide you as to the expense of making that open cut?" and in excluding the answer of the witness to said question, and in excluding the testimony given by said witness as to the manner of estimating the value of and cost of making the open cut referred to in the question. [376]

24. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness John T. Breckon, in his deposition, viz.: "Of course I realize, Mr. Breckon, it was a fairly good time ago and these details may be indistinct now; but from your testimony I gather that you observed that the tunnels, as far as you observed at that time, had been used for the development of water. That is correct?" and in excluding the answer of the witness to said question, viz.: "They were using it, taking water out."

25. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness John T. Breckon, in his deposition, viz.: "Now, give us the manner in which you computed the amounts of money expended in development work on the Sunset lode, Mr. Breckon?" and in excluding the answer of the witness to said question, viz.: "That was the same as we usually make these estimates—see the character of the rock, the size of the tunnel, and the earth removed," and in excluding the further testimony of the witness as to the manner of estimating the cost of the work referred to and the amount at which such work was estimated.

26. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness John T. Breckon, in his deposition, viz.: "You considered solely the amount of the area excavated—the amount of ground excavated, and the dimensions of the claims?" and in excluding the answer of the witness to said question, viz.: "I measured the *the* tunnel. I supposed he had run the tunnel in search for mineral and developing the ground for mineral."

27. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following [377] question asked the witness John T. Breckon, in his deposition, viz.: "Now, will you please tell us the manner in which you computed the amount expended for improvements on the Noonday lode?" and in excluding the answer of the witness to said question, viz.: "In the

usual way by getting the dimensions of the tunnel and seeing the character of the rock and thus making the estimates of the cost," and in excluding the further testimony of the witness as to the manner of estimating the cost and value of the improvements mentioned and the amount of such estimates.

28. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness John T. Breckon, in his deposition, viz.: "Now, in making your return as to improvements on this Emmett lode—from that return as shown in Government's Exhibit No. 11,—were you guided in arriving at your estimate of the amount expended by anything that might have been said to you by Mr. Saunders or Mr. Dimmick?" and in excluding the answer of the witness to said question, viz.: "No, sir, Mr. Dimmick claimed at that time that they had spent at least \$500 on that tunnel. I told him I could not return it. I think it was 50 feet. That would be \$10 a foot. I told him they would have to do more work."

29. The said District Court erred in excluding the further testimony of the witness Breckon as to the manner of computing the cost of the work on the Emmett lode, and the amounts of the cost so computed.

30. The said District Court erred in sustaining the objections of the defendant Grand Canyon Cattle Company to the following questions asked the witness, John T. Breckon in his deposition, and in excluding the following answers of the witness, viz.:

“Q. What further examination did you make in order to ascertain whether the requisite amount of work had been done on the claim? [378]

A. I don't remember that I made a personal examination. Q. Did they report to you in some manner?

A. It was reported to me by Mr. Saunders that he had caused 25 feet, I think, of additional work to be done. Q. And on his additional report to you, you reported it? A. Yes, sir. It is an expensive trip to go there from Salt Lake City and back.”

31. The said District Court erred in sustaining the objection to the affidavit of John T. Breckon, Government's Exhibit No. 12, set forth in the transcript of the evidence, and in excluding said affidavit from the evidence.

32. The said District Court erred in sustaining the objection of the Grand Canyon Cattle Company to the assay certificate, exhibit “A” attached to the deposition of W. A. Black, and set forth in the transcript of the evidence in this cause, and in excluding said assay certificate from the evidence.

33. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the introduction in evidence of the assay certificate exhibit “B” attached to the deposition of W. A. Black, and set forth in the transcript of the evidence in this cause, and in excluding said assay certificate from the evidence.

34. The said District Court erred in sustaining the objection of the Grand Cattle Canyon Company to the following question asked the witness A. F. Rynders, in his deposition, and in excluding the an-

swer of said witness, viz.: "Q. Prior to the destruction of these papers had you or had you not heard that suit had been brought by the Government involving the title to certain lands which had theretofore been acquired by the partnership and transferred to the Grand Canyon Cattle Company? A. I had heard indirectly, from the newspapers." [379]

35. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the introduction of the letter exhibit "C," attached to the deposition of A. F. Rhynthers, and in excluding said letter from the evidence, said letter being as follows:

"United States Department of Agriculture.
Forest Service.

Fredonia, Ariz., Dec. 3, 1906.

B. F. Saunders,

Salt Lake City, Utah:

Dear Sir:—

I write to inform you that your claims, in Kane Canyon, were inspected, by the Forest Inspector, W. W. Clark, & myself, during the forepart of November, and reported to the Department, as requested.

Forest officers are now required to send a sample of 15 or 20 lbs. of ore to be tested, for the information of the Forester, and as there was no samples of ore to be found on the Claim, it is impossible to tell just what action will be taken by the department.

I have mailed to the Forester the assay which you sent me, taken from the Kane lode.

Very respectfully,
LORRINE PRATT,
Forest Supervisor."

36. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following questions asked the witness Charles Dimmick, in his deposition, and in excluding the answers of the witness thereto, viz.: "Q. And as superintendent you were authorized to purchase supplies? A. Yes, sir. Q. And you did do so? A. Yes, sir."

37. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness David Barney, in his deposition, viz.: "You saw them writing down something at these points?" and in excluding the answer of the witness to said question, viz.: "Yes."

38. The said District Court erred in sustaining the objections of the defendant Grand Canyon Cattle Company to the following questions asked the witness David Barney in his deposition, and in [380] excluding the following answers of the witness, viz.: "Q. Did you learn anything from the members of the party about whether or not Mr. Saunders retained any interest after the sale to Marshall and Stephenson? A. Yes, I understood they left him an interest. Q. Do you know what interest? A. No, I forget what interest. They told me. Q. Who told you? A. Marshall. Q. Can you recall approximately

what interest Mr. Saunders retained after the deal was made? A. No. Q. But you did learn from Mr. Marshall that Mr. Saunders did retain an interest after the sale to Marshall and Stephenson? A. Yes. The way I understood it they wanted him in and gave him an interest in the business or something. Q. And that information you obtained from Mr. Marshall himself while there with the party? A. Yes."

39. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked of the witness Selden F. Harris, "Q. What was the conversation?" (referring to conversation between the witness and one H. S. Stephenson).

40. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness Selden F. Harris, viz.: "Q. State what that conversation in substance was as nearly as you can recall?" and in not permitting the witness to answer said question, except for the purpose of taking such answer under equity rule 46.

41. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following testimony given by the witness Selden F. Harris and in excluding the following testimony given by said witness, viz.:

"During the conversation with Mr. Stephenson upon the branding [381] *branding* chute in the corral, at the V. T. Park, I was frank to inform Mr. Stephenson that certain claims known as the Kane

lode, Kane mill site and the Jacobs lode were being held by the Government as being invalid, and that it was very doubtful in my opinion if patent on the same would ever be issued because reports of all Forest Supervisors showed these claims to have been located to obtain water and not for mining purposes. And further than that, that these claims were not upon mineral-bearing rock in place. I think that was, as near as I can recall, the substance of the conversation at that time"; and the said District Court erred in not considering said testimony as a part of the evidence in the cause.

42. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness Selden F. Harris, viz.: "Did Mr. Stephenson make any comment after you so informed him?" and in excluding the answer of the witness to said question, viz.: "There was no particular comment made, no, sir."

43. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness Selden F. Harris, viz.: "Q. Did he do anything after you gave him this information?" and in excluding the answer of the witness to said question, viz.: "A. He proceeded along the regular routine of work that was being done with not very much to say. I think that it was just about that time that some cattle were let out. Later we resumed our conversation in a more general way, and the conversation was soon changed, there having been a heavy storm coming up

from the west, which made a very pretty picture, and he switched off on the conversation about the kodak. He said 'that would make a pretty picture, Harris,' and I took a picture at that time."

44. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question [382] asked the witness Selden F. Harris, viz.: "Q. You say you returned to your original conversation. Who returned to that original conversation first after you gave this information to Mr. Stephenson?" and in excluding the answer of the witness to said question, viz.: "A. I did."

45. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following question asked the witness E. J. Marshall, on cross-examination, as follows:

"Q. Is it true that Mr. Stephenson, in all of these negotiations with Mr. Saunders, was representing you as your manager?" and in excluding the answer of the witness to said question, viz.: "A. He was not."

46. The said District Court erred in sustaining the objection of the defendant Grand Canyon Cattle Company to the following testimony given by the witness E. J. Marshall, under Equity Rule 46, and in excluding said testimony and in not considering the same as a part of the evidence in this cause, said testimony being as follows:

"Mr. Stephenson was acting for me in inspecting a bunch of cattle that I contemplated buying. I refer to the inspection of the cattle on the V. T. Ranch,

in June, 1907, and September, 1907. We took over no cattle from Saunders in October, 1907. Mr. Stephenson appeared as my representative or the representative of the Grand Canyon Cattle Company in October, 1907, for the purpose of counting the cattle for the Grand Canyon Cattle Company. He had authority to count the cattle, to tally-brand them, and report to me the number tally branded. Mr. Stephenson has been my manager for eleven years in California. On the occasion of these two trips in 1907, in my company to the Buckskin Mountain ranch, and on the occasion when Mr. Stephenson appeared at the Buckskin ranch [383] to count cattle in 1907, he had no authority as representative of the Grand Canyon Cattle Company because it was not then organized, but he was representing me in other companies and I requested him to go and look at these cattle and pass upon their quality and the quality of the range and the condition of the water and advise me. On these occasions during the entire year 1907 he was in my employ as my cattle manager."

47. The said District Court erred in dismissing the bill of complaint and in rendering its decree dismissing said bill of complaint, for the reason that it was established by the evidence that B. F. Saunders was guilty of the fraud charged in said bill of complaint, and that the defendant Grand Canyon Cattle Company had notice or knowledge of such fraud, or had notice or knowledge of facts sufficient to put it on inquiry with respect to such fraud of said Saunders.

48. The said District Court erred in not finding

from the evidence and in not holding and deciding that the defendant Grand Canyon Cattle Company had notice or knowledge of the fraud committed by said B. F. Saunders and charged in the amended bill of complaint or knowledge of facts sufficient to put it on inquiry with respect to such fraud, at the time of the conveyance of the property described in said amended bill of complaint by said Saunders to said Grand Canyon Cattle Company.

49. The said District Court erred in finding and deciding that the defendant Grand Canyon Cattle Company purchased the property described in said amended bill of complaint and involved in this suit from said B. F. Saunders in good faith, for value, and without notice or knowledge of any fraud on the part of said Saunders, for the reason that the evidence shows that said Grand Canyon Cattle Company, at the time of such purchase, had notice and knowledge of the fraud of said Saunders, and purchased said property with such notice. [384]

50. The said District Court erred in its said decree dismissing the plaintiff's bill of complaint for the reason that the evidence shows that Saunders was guilty of the fraud charged in the amended bill of complaint and the defendant Grand Canyon *Cattle failed* to prove that at the time it purchased the property involved in this suit from said Saunders, it purchased the same in good faith, for a valuable consideration, and without notice or knowledge of the said fraud of said Saunders.

51. The said District Court erred in not rendering its decree in favor of the United States of Amer-

ica as prayed in the amended bill of complaint, annulling and cancelling the patents issued by the United States to said B. F. Saunders, and the deed or deeds conveying the said property described in said amended bill to the defendant Grand Canyon Cattle Company, and for all the relief prayed in said amended bill of complaint, for the reason that it was shown by the evidence that said Saunders committed the fraud charged in the said amended bill of complaint, and that the said Grand Canyon Cattle Company purchased said property and took conveyance thereof, with notice and knowledge, at the time of such purchase and conveyance, of the said fraud of said Saunders, and with knowledge of facts which put the said Grand Canyon Cattle Company on inquiry with respect to such fraud.

52. The said District Court erred in its decree dismissing the bill of complaint, for the reason that the evidence is insufficient to show and does not show that the said Grand Canyon Cattle Company, at the time of the purchase by and conveyance to it of the property described in the amended bill of complaint, had no notice or knowledge of the fraud committed by B. F. Saunders, and that such fraud on the part of said Saunders is clearly established by the evidence in this cause.

53. The said District Court erred in its decree dismissing [385] the bill of complaint, for the reason that its finding and conclusion that the said defendant Grand Canyon Cattle Company was a bona fide purchaser of the property described in the amended bill of complaint, without notice or

knowledge of the fraud of B. F. Saunders, is not sustained by the evidence but is contrary thereto.

WHEREFORE, by reason of the manifest errors aforesaid, the said United States of America prays that the said decree of the said District Court may be in all things annulled, reversed and held for naught, and that this Court do render its decree in favor of the said United States of America granting it the relief prayed in its said amended bill of complaint, or that it do remand this cause to the said District Court with directions to render such decree.

THOMAS A. FLYNN,

United States Attorney for the District of Arizona,
Solicitor for Appellant.

[Endorsements]: In the United States Circuit Court of Appeals for the Ninth Circuit. The United States of America, Appellant, vs. Grand Canyon Cattle Company, Appellee. Assignment of Errors. Filed Oct. 26, 1915. George W. Lewis, Clerk.
[386]

*In the United States Circuit Court of Appeals for the
Ninth Circuit.*

THE UNITED STATES OF AMERICA,

Appellant,

vs.

GRAND CANYON CATTLE COMPANY, a Corporation,
Appellee.

Prayer for Reversal.

To the Honorable the United States Circuit Court of Appeals for the Ninth Circuit:

And now comes the United States of America, the above-named appellant, and prays for a reversal of the decree of the District Court of the United States for the District of Arizona, in a suit brought by the said The United States of America against Grand Canyon Cattle Company, a corporation, defendant, with whom were also named as defendants B. F. Saunders and Ora Haley, who were not served with process and did not appear in said suit, which said decree was entered in the office of the Clerk of said District Court on the 28th day of April, A. D. 1915.

THOMAS A. FLYNN,

United States Attorney for the District of Arizona,
Solicitor for Appellant.

[Endorsements]: In the United States Circuit Court of Appeals for the Ninth Circuit. The United States of America, Appellant, vs. Grand Canyon Cattle Company, a Corporation, Appellee. Prayer for Reversal. Filed Oct. 26, 1915. George W. Lewis, Clerk. [387]

*In the District Court of the United States for the
District of Arizona.*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

B. F. SAUNDERS, GRAND CANYON CATTLE
COMPANY, a Corporation, and ORA
HALEY,

Defendants.

Stipulation Re Transmission of Original Exhibits.

It is hereby stipulated by and between the United States of America, by the United States Attorney for the District of Arizona, and the defendant Grand Canyon Cattle Company, a corporation, by its solicitors of record in this suit that the originals of certain exhibits introduced in evidence upon the trial of this suit and consisting of certain maps, drawings and photographs, may be sent to the United States Circuit Court of Appeals of the Ninth Circuit upon the appeal heretofore taken by the United States herein, in lieu of copies thereof, said exhibits being designated in the files and records of this suit, as Government's Exhibits Nos. 3, 4, 5, 6, 7, 8, 9, 13, 13a, 14, 15, 16, 17, 18, 19a, 19b, 20, 21, 23, 24, 25, 26, 27-P, 50-P, 51-P, 52-P, 53-P, 54-P, 55-P, and 56-P, and defendant Grand Canyon Cattle Company's Exhibit "A," and that an order may be made by the Judge of the District Court of the United States for the District of Arizona directing that such original exhibits be sent to said United States Circuit Court of Ap-

peals, and for the safekeeping, transporting and return thereof. This stipulation is made for the reason that it is impracticable, if not impossible, to make copies of said exhibits, and it is agreed that said original exhibits shall be deemed a part of the statement of evidence on such appeal, and shall have the same force and effect as if copies thereof were made a part of such statement of evidence, but copies of all such exhibits shall be inserted in the printed transcript of record on such appeal.

Dated February 7th, 1916.

THOMAS A. FLYNN,

United States Attorney for the District of Arizona.

O'MELVENY, STEVENS & MILLIKIN,

WALTER K. FULLER,

Solicitors for Defendant, Grand Canyon Cattle Company. [388]

[Endorsements]: No. E-49—Phoenix. In the District Court of the United States for the District of Arizona. United States of America, Plaintiff, vs. B. F. Saunders et al., Defendants. Stipulation that Certain Original Exhibits may be Sent to Circuit Court of Appeals. Filed Apr. 25, 1916, at — M. Mose Drachman, Clerk. By R. E. L. Webb, Deputy. [389]

*In the District Court of the United States for the
District of Arizona.*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

B. F. SAUNDERS, GRAND CANYON CATTLE
COMPANY, a Corporation, and ORA
HALEY,

Defendants.

Order Directing Transmission of Original Exhibits.

Order directing transmission of original exhibits
to the United States Circuit Court of Appeals.

Pursuant to stipulation between the United States
Attorney, counsel for the plaintiff and counsel for
the Grand Canyon Cattle Company that certain
original papers and exhibits, of which it is imprac-
ticable to make copies, may be sent to the United
States Circuit Court of Appeals for the Ninth Cir-
cuit it is hereby

ORDERED that the clerk of this court be and he
is hereby directed to send by mail to the clerk of the
United States Circuit Court of Appeals for the
Ninth Circuit those certain exhibits consisting of
maps, drawings and photographs and designated
as Government's Exhibits numbers 3, 4, 5, 6, 7, 8, 9,
13, 13a, 14, 15, 16, 17, 18, 19a, 19b, 20, 21, 23, 24, 25,
26, 27-P, 50-P, 51-P, 52-P, 53-P, 54-P, 55-P, and
56-P, and Grand Canyon Cattle Company's Ex-
hibit "A," and that such original exhibits be deemed
a part of the statement of evidence upon the appeal

heretofore taken by the United States in this cause and shall have the same force and effect as if copies thereof were included in such statement of evidence and copies of all such exhibits shall be inserted in the printed record on such appeal.

The clerk of this court is directed to send the same by registered mail, requiring a return receipt therefor and when this cause shall have finally been determined by said Circuit Court of Appeals, said exhibits shall be returned in like manner to the clerk of this court.

Dated November 27, 1916.

WM. H. SAWTELLE,
United States District Judge, District of Arizona.
[390]

E-49—Phoenix. In the District Court of the United States for the District of Arizona. United States of America, Plaintiff, vs. B. F. Saunders, Grand Canyon Cattle Company, a corporation, and Ora Haley, Defendants. Order Directing the Transmission of Original Exhibits to Circuit Court of Appeals. Filed Nov. 27, 1916, at — M. Mose Drachman, Clerk. By R. E. L. Webb, Deputy.
[391]

*In the District Court of the United States for the
District of Arizona.*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

B. F. SAUNDERS, GRAND CANYON CATTLE
COMPANY, a Corporation, and ORA
HALEY,

Defendants.

Stipulation Re Approval of Statement of Evidence.

It is hereby stipulated between the plaintiff and the defendant Grand Canyon Cattle Company, that the statement of the evidence heretofore served and lodged with the clerk by the plaintiff, after incorporating therein all the amendments and corrections proposed by the defendant Grand Canyon Cattle Company may be approved and certified by the Judge before whom this cause was tried, in accordance with the form of certificate attached to said statement of evidence, without further notice.

Dated November 10th, 1916.

THOMAS A. FLYNN,
United States Attorney.

O'MELVENY, STEVENS, & MILLIKIN,
WALTER K. FULLER,

Solicitors for the Defendant Grand Canyon Cattle
Company.

[Endorsements]: No. E-49—Phoenix. In the District Court of the United States for the District of Arizona. United States of America, Plaintiff,

vs. B. F. Saunders, et al., Defendants. Stipulation.
Filed Nov. 27, 1916, at — M. Mose Drachman,
Clerk. By R. E. L. Webb, Deputy. [392]

*In the District Court of the United States for the
District of Arizona.*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

B. F. SAUNDERS, GRAND CANYON CATTLE
COMPANY, a Corporation, and ORA
HALEY,

Defendants.

**Stipulation Re Extension of Time for Preparing, etc.
Statement of Evidence.**

It is hereby stipulated and agreed between counsel for the United States and the Grand Canyon Cattle Company, that, by various stipulations and orders, the time within which the plaintiff might prepare, serve, and lodge with the clerk of the above-named court a statement of the evidence in this cause was extended until and including the 25th day of April, 1916, on which date such statement was served and lodged with said clerk; that thereafter, by various orders and stipulations, the time of the defendant Grand Canyon Cattle Company to prepare, serve and file proposed amendments and corrections of such statement was extended until and including the 12th day of October, 1916, on which date such proposed amendments and corrections were served and lodged with the clerk of this court;

that copies of such orders and stipulations need not be made a part of the record on appeal, it being agreed that a copy of this stipulation may be made a part of such record in place of copies of the various orders and stipulations above mentioned.

THOMAS A. FLYNN,

United States Attorney.

O'MELVENY, STEVENS & MILLIKIN
and

WALTER K. FULLER,

Solicitors for Defendant, Grand Canyon Cattle Company. [393]

[Endorsements]: No. E-49—Phoenix. In the District Court of the United States for the District of Arizona. United States of America, Plaintiff, vs. B. F. Saunders et al., Defendants. Stipulation. Filed Dec. 2, 1916, at — M., Mose Drachman, Clerk. By R. E. L. Webb, Deputy. [394]

*In the District Court of the United States for the
District of Arizona.*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

B. F. SAUNDERS, GRAND CANYON CATTLE
COMPANY, a Corporation, and ORA
HALEY,

Defendants.

Praeceptum for Transcript of Record.

To the clerk of the Above-named Court:

You will please forward to the clerk of the United States Circuit Court of Appeals for the Ninth Cir-

cuit, copies of the following papers and records, as the record on the appeal heretofore taken by the United States of America from the decree heretofore rendered and entered in this cause:

1. The bill of complaint.
2. Stipulation waiving answer under oath.
3. Demurrer to bill.
4. Order sustaining demurrer to bill.
5. Amended bill of complaint.
6. Answer of defendant Grand Canyon Cattle Company to amended bill of complaint.
7. Replication.
8. Opinion of the Court.
9. Decree.
10. Notice of decree.
11. Statement of evidence.
12. Petition for appeal and order allowing appeal.
13. Assignments of error.
14. Prayer for reversal.
16. Stipulation for sending up certain original exhibits.
17. Order directing sending up original exhibits.
18. Stipulation that statement of evidence be certified and approved by Judge.
19. Stipulation taking place of copies of orders extending time to file record and proposed amendments.
20. This praecipe.

The clerk will also send to the Clerk of the United States Circuit Court of Appeals, the following original papers and documents, filed herein:

1. The exhibits as directed in the order requiring the sending up of certain original exhibits.

2. The citation on appeal, with admission of service.
3. The orders enlarging the time to file record and docket case in the United States Circuit Court of Appeals.

THOMAS A. FLYNN,
United States Attorney, for the District of Arizona.
[395]

[Endorsements]: No. E-49 (Phoenix). In the District Court of the United States for the District of Arizona. United States of America, Plaintiff, vs. B. F. Saunders, Grand Canyon Cattle Company, a Corporation, and Ora Haley, Defendants, Praeceptum for Record on Appeal. Filed Dec. 2, 1916, at — M, Mose Drachman, Clerk. By R. E. L. Webb, Deputy. [396]

In the United States District Court for the District of Arizona.

IN EQUITY—No. 49 (PHOENIX).
UNITED STATES OF AMERICA,
Plaintiff,
vs.
B. F. SAUNDERS et al.,
Defendants.

**Certificate of Clerk of United States District Court
to Transcript of Record.**

United States of America,
District of Arizona,—ss.

I, Mose Drachman, Clerk of the United States District Court for the District of Arizona, do hereby

certify that the foregoing three hundred ninety-six (396) typewritten pages, numbered from one (1) to three hundred ninety-six (396), inclusive, to be a full, true, correct and complete copy of so much of the record, papers, and other proceedings in the above and foregoing entitled cause as are necessary to the hearing of said cause, and as is stipulated for by counsel of record herein, as the same remain of record on file in the office of the Clerk of said District Court, and that the same constitute the record on appeal from the decree of said United States District Court, for the District of Arizona, to the United States Circuit Court of Appeals for the Ninth Circuit. [397]

I further certify the following to be a full, true and correct statement of all expenses, costs, fees and charges incurred in my office by or on behalf of the plaintiff for the preparation and certification of the typewritten transcript of record issued to the United States Circuit Court of Appeals for the Ninth Circuit in the above-entitled cause and which will be included in my quarterly account of fees earned from the United States for the quarter ending December 31, 1916, for settlement, to wit:

Clerk's fee (Sec. 828 R. S. U. S. as Amended by Sec. 6, Act of March 2, 1905), for making typewritten transcript of record —1000 folios at 20¢ per folio.....	\$200.00
Certificate of clerk to typewritten transcript of record, 4 folios at 30¢ per folio.....	1.20
Seal of Court to said Certificate.....	.40
<hr/>	
Total,	\$201.60

I further certify that original orders, enlarging and extending the time within which to file the record and docket this cause in the United States Circuit Court of Appeals for the Ninth Circuit, dated October 22, 1915, November 13, 1915, December 6, 1915, January 3, 1916, March 24, 1916, May 8, 1916, July 28, 1916, September 27, 1916 and November 27, 1916, have heretofore been transmitted to you under separate cover; and that the original Citation and Government Exhibits Nos. 3, 4, 5, 6, 7, 8, 9, 13, 13a, 14, 15, 16, 17, 18, 19a, 19b, 20, 21, 23, 24, 25, 26, 27-P, 50-P, 51-P, 52-P, 53-P, 54-P, 55-P and 56-P and Defendant's Exhibit "A" in this cause are hereto attached and herewith transmitted.

WITNESS my hand and the seal of said District Court, affixed this 14th day of December, A. D. 1916, at Phoenix, Arizona.

[Seal]

MOSE DRACHMAN,

Clerk.

By R. E. L. Webb,
Deputy. [398]

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

THE UNITED STATES OF AMERICA,

Appellant,

vs.

B. F. SAUNDERS, GRAND CANYON CATTLE
COMPANY, a Corporation, and ORA
HALEY, Defendants, GRAND CANYON
CATTLE COMPANY, a Corporation,

Appellee.

Citation on Appeal.

United States of America,—ss.

To Grand Canyon Cattle Company, a Corporation,
Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at San Francisco, in the State and Northern District of California, on the 23d day of November A. D. 1915, pursuant to an appeal duly allowed and filed in the office of the clerk of the District Court of the United States for the District of Arizona, wherein The United States of America is appellant and Grand Canyon Cattle Company, a corporation, is appellee, to show cause, if any there be, why the decree in the said appeal mentioned, to wit, the decree of the said District Court of the United States for the District of Arizona rendered and entered on the 28th day of April, 1915, should not be corrected and speedy justice should not be done to the parties in that behalf.

WITNESS the Honorable EDWARD D. WHITE, Chief Justice of the United States, this 26th day of October, A. D. 1915.

WM. H. SAWTELLE,
United States District Judge, District of Arizona.

[Endorsed]: In the United States Circuit Court of Appeals for the Ninth Circuit. The United States of America, Appellant, vs. Grand Canyon Cattle Company, a Corporation, Appellee. Citation on Appeal. Due Service of and receipt of a copy of the within citation on Appeal is hereby ad-

mitted this 26th day of October, 1915. O'Melveny, Stevens & Millikin & Kibbey, Bennett & Bennett, Solicitors for Appellee. Filed Oct. 26, 1915, at — M. George W. Lewis, Clerk. By R. E. L. Webb, Deputy.

[Endorsed]: No. 2894. United States Circuit Court of Appeals for the Ninth Circuit. The United States of America, Appellant, vs. Grand Canyon Cattle Company, a Corporation, Appellee. Transcript of the Record. Upon Appeal from the United States District Court for the District of Arizona.

Filed December 16, 1916.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

2894.

UNITED STATES OF AMERICA,
Appellant,

vs.

GRAND CANYON CATTLE COMPANY, a Cor-
poration,

Appellee.

**Order Enlarging Time to January 10, 1916, to File
Record and Docket Cause.**

It appearing that, by reason of the size of the rec-

ord in this cause and the time necessary to prepare a transcript thereof, it will be impossible to prepare the same and to file the record with the clerk of the United States Circuit Court of Appeals for the Ninth Circuit on or before November 23d, 1915, that being the return day of the citation heretofore issued and served, now therefore, for good cause shown, the undersigned, the Judge who signed said citation, does hereby order that the time to file the record in this case and to docket this case with the clerk of the United States Circuit Court of Appeals for the Ninth Circuit, and the return day of said citation, be and the same is hereby enlarged and extended until and including the 10th day of January, 1916.

Done this 13th day of November, 1915.

WM. H. SAWTELLE,
United States District Judge, District of Arizona.

[Endorsed]: In the United States Circuit Court of Appeals for the Ninth Circuit. United States of America, Appellant, vs. Grand Canyon Cattle Company, a Corporation, Appellee. Order Enlarging Time to File Record and Docket Case. Filed Nov. 15, 1915. F. D. Monekton, Clerk.

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

UNITED STATES OF AMERICA,

Appellant,

vs.

GRAND CANYON CATTLE COMPANY, a Corporation,

Appellee.

**Order Enlarging Time to March 29, 1916, to File
Record and Docket Cause.**

It appearing that, by reason of the size of the record in cause and the time necessary to prepare a transcript thereof, it will be impossible to prepare the same and to file the record with the clerk of the United States Circuit Court of Appeals for the Ninth Circuit on or before January 10th, 1916, that being the enlarged return day of the citation heretofore issued and served, now therefore, for good cause shown, the undersigned, the Judge who signed said citation, does hereby order that the time to file the record in this case and to docket this case with the clerk of the United States Circuit Court of Appeals for the Ninth Circuit, and the return day of said citation, be and the same is hereby enlarged and extended until and including the 29th day of March, A. D. 1916.

Done this 3d day of January, 1916.

WM. H. SAWTELLE,
United States District Judge, District of Arizona.

[Endorsed]: No. ——. In the United States Circuit Court of Appeals for the Ninth Circuit. United States of America, Appellant, vs. Grand Canyon Cattle Company, a Corporation, Appellee. Order Further Enlarging Time to File Record and Docket Case. Filed Jan. 5, 1916. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

2894.

UNITED STATES OF AMERICA,

Appellant,

vs.

GRAND CANYON CATTLE COMPANY, a Cor-
poration,

Appellee.

**Order Enlarging Time to May 13, 1916, to File
Record and Docket Cause.**

It appearing that, by reason of the size of the record in this cause and the time necessary to prepare a transcript thereof, it will be impossible to prepare the same and to file the record with the clerk of the United States Circuit Court of Appeals for the Ninth Circuit on or before March 29th, 1916, that being the enlarged return day of the citation heretofore issued and served, now therefore, for good cause shown, the undersigned, the Judge who signed said citation, does hereby order that the time to file the record in this case and to docket this case with the clerk of the United States Circuit Court of Appeals for the Ninth Circuit, and the return day of said citation, be and the same is hereby enlarged and extended until and including the 13th day of May, A. D. 1916.

Done this 24th day of March, 1916.

WM. H. SAWTELLE,
United States District Judge, District of Arizona.

[Endorsed]: No. ——. In the United States Circuit Court of Appeals for the Ninth Circuit. United States of America, Appellant, vs. Grand Canyon Cattle Company, a Corporation, Appellee. Order Further Enlarging Time to File Record and Docket Case.

No. ——. United States Circuit Court of Appeals for the Ninth Circuit. Order Under Rule 16 Enlarging Time to —— to File Record Thereof and to Docket Case. Filed Mar. 27, 1916. F. D. Monckton, Clerk.

In the United States Circuit Court of Appeals for the Ninth Circuit.

2894.

UNITED STATES OF AMERICA,

Appellant,

vs.

GRAND CANYON CATTLE COMPANY, a Corporation,

Appellee.

Order Enlarging Time to August 3, 1916, to File Record and Docket Cause.

It appearing that, by reason of the size of the record in this cause and the time necessary to prepare a transcript thereof, it will be impossible to prepare the same and to file the record with the clerk of the United States Circuit Court of Appeals for the Ninth Circuit on or before May 13th, 1916, that being the enlarged return day of the citation heretofore issued and served, now therefore, for good cause

shown, the undersigned, the Judge who signed said citation, does hereby order that the time to file the record in this case and to docket this case with the clerk of the United States Circuit Court of Appeals for the Ninth Circuit, and the return day of said citation, be and the same is hereby enlarged and extended until and including the 3d day of August, A. D. 1916.

Done this 8th day of May, 1916.

WM. H. SAWTELLE,
United States District Judge, District of Arizona.

[Endorsed]: In the United States Circuit Court of Appeals for the Ninth Circuit. United States of America, Appellant, vs. Grand Canyon Cattle Company, Appellee. Order Further Enlarging Time to File Record and Docket Case. Filed May 10, 1916. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

2894.

UNITED STATES OF AMERICA,
Appellant,

vs.

GRAND CANYON CATTLE COMPANY, a Corporation,

Appellee.

**Order Enlarging Time to September 29, 1916, to File
Record and Docket Cause.**

It appearing that, by reason of the size of the record in this cause and the time necessary to prepare

a transcript thereof and the fact that additional time has been granted to the appellee to propose amendments to the statement of evidence, that it will be impossible to prepare such transcript and to file the record with the clerk of the United States Circuit Court of Appeals of the Ninth Circuit on or before August 3d, 1916, that being the enlarged return day of citation heretofore issued and served, now, therefore, for good cause shown, the undersigned, the Judge who signed said citation, does hereby order that the time to file the record in this case and to docket this case with the clerk of the United States Circuit Court of Appeals for the Ninth Circuit, and the return day of said citation, be and the same is hereby enlarged and extended until and including the 29th day of September, A. D. 1916.

Done this 28th day of July, 1916.

WM. H. SAWTELLE,

United States District Judge, District of Arizona.

[Endorsed]: No. 49 (Phx.) In the United States Circuit Court of Appeals for the Ninth Circuit. United States of America, Appellant, vs. Grand Canyon Cattle Company, a Corporation, Appellee. Order Further Enlarging Time to File Record and Docket Case and Return Day of Citation. Filed July 28, 1916. Mose Drachman, Clerk. By R. E. L. Webb, Deputy.

No. ——. United States Circuit Court of Appeals for the Ninth Circuit. Order Under Rule 16 Enlarging Time to Sept. 29, 1916, to File Record Thereof and to Docket Case. Filed Jul. 29, 1916. F. D. Monekton, Clerk.

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

2894.

UNITED STATES OF AMERICA,

Appellant,

vs.

GRAND CANYON CATTLE COMPANY, a Corporation,

Appellee.

**Order Enlarging Time to November 30, 1916, to File
Record and Docket Cause.**

It appearing that by reason of the size of the record in this cause and the time necessary to complete the statement of the evidence therein, it will be impossible to file a transcript of the record and to docket the case with the clerk of the United States Circuit Court of Appeals on or before the 29th day of September, 1916, the time now fixed by order therefor, now therefore, for good cause shown, the undersigned, the Judge who signed the citation on appeal, does hereby order that the time within which to file the record in this cause with the clerk of the United States Circuit Court of Appeals for the Ninth Circuit, and to docket the case in the said Circuit Court of Appeals be and the same is hereby enlarged and extended until and including the 30th day of November, 1916.

Dated September 27th, 1916.

WM. H. SAWTELLE,
United States District Judge, District of Arizona.

[Endorsed]: In the United States Circuit Court of Appeals for the Ninth Circuit. United States of America, Appellant, vs. Grand Canyon Cattle Company, a Corporation, Appellee. Order Further Enlarging Time to File Record and Docket Case.

No. —. United States Circuit Court of Appeals for the Ninth Circuit. Order Under Rule 16 Enlarging Time to Nov. 30, 1916, to File Record Thereof and to Docket Case. Filed Sept. 29, 1916. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

2894.

UNITED STATES OF AMERICA,

Appellant,

vs.

GRAND CANYON CATTLE COMPANY, a Corporation,

Appellee.

**Order Enlarging Time to December 20, 1916, to File
Record and Docket Cause.**

It appearing that from the size of the record herein, and the fact that the statement of the evidence has recently been certified and filed, it will be impossible to prepare and file a transcript of the record and docket the case with the clerk of the United States Circuit Court of Appeals for the Ninth Circuit on or before the 30th day of November, 1916, the time now fixed by order therefor, now therefore, for good cause shown, the undersigned, the Judge who

signed the citation on appeal, does hereby order that the time within which to file the record in this cause with the clerk of the United States Circuit Court of Appeals for the Ninth Circuit, and to docket the case in the said United States *circuit of Appeals*, be and the same is hereby extended and enlarged until and including the 20th day of December, 1916.

Dated November 27th, 1916.

WM. H. SAWTELLE,

United States District Judge, District of Arizona.

[Endorsed]: No. ——. In the United States Circuit Court of Appeals for the Ninth Circuit. United States of America, Appellant, vs. Grand Canyon Cattle Company, a Corporation, Appellee. Order Further Enlarging Time to File Record and Docket Case to Dec. 20, 1916. Filed Nov. 29, 1916. F. D. Monckton, Clerk.

No. 2894. United States Circuit Court of Appeals for the Ninth Circuit. Seven Orders Under Rule 16 Enlarging Time to Dec. 20, 1916, to File Record Thereof and to Docket Case. Refiled Dec. 16, 1916. F. D. Monckton, Clerk.

Handwritten notes at top: "T. 36 N. R. 3 E. 36' 30\"/>

Townships
 & Ranges
 (V.M.S.)



Lat. 36° 30'

NORTH BOUNDARY FOREST RESERVE

Scale: 1 mile = 1 inch

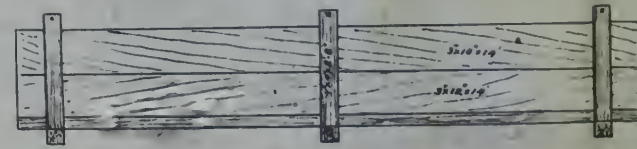
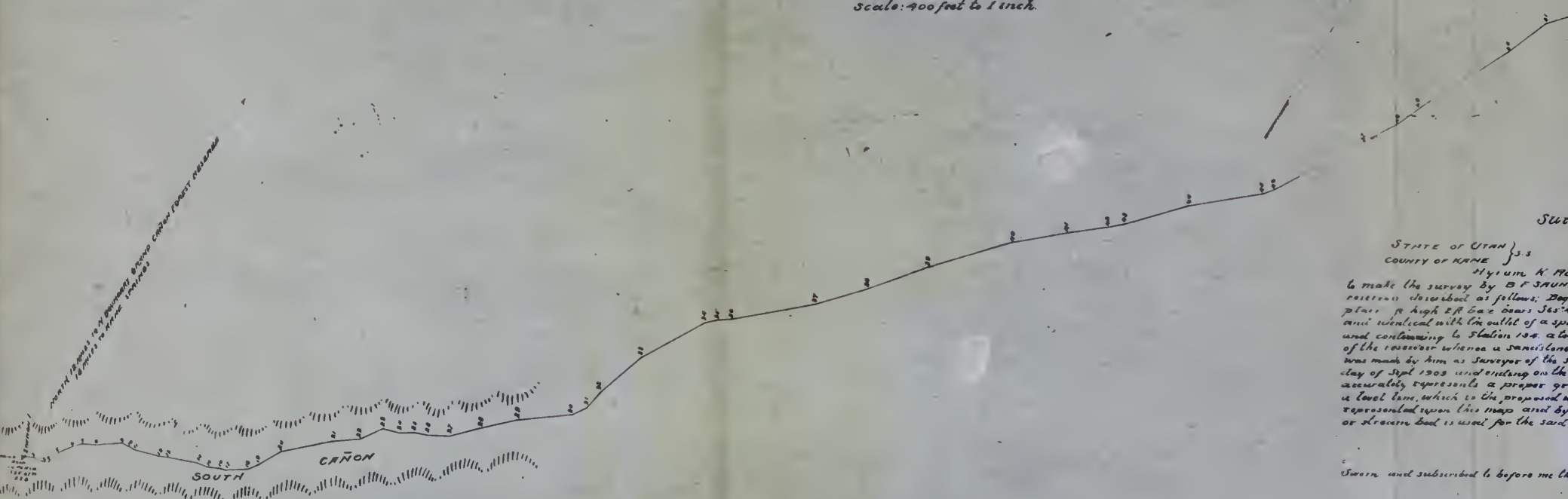
6x4

Case No. 2894
U. S. Circuit Court of Appeals
For the Ninth Circuit
Filed DEC 18 1916
R. D. MONTGOMERY, Clerk

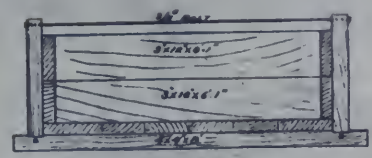
B. F. SAUNDERS

PIPE LINE AND RESERVOIR.
ON
GRAND CAÑON FOREST RESERVE
COCONINO COUNTY,
ARIZONA.

Scale: 400 feet to 1 inch.



SIDE VIEW OF TANK
Scale: 2 ft. to 1 inch

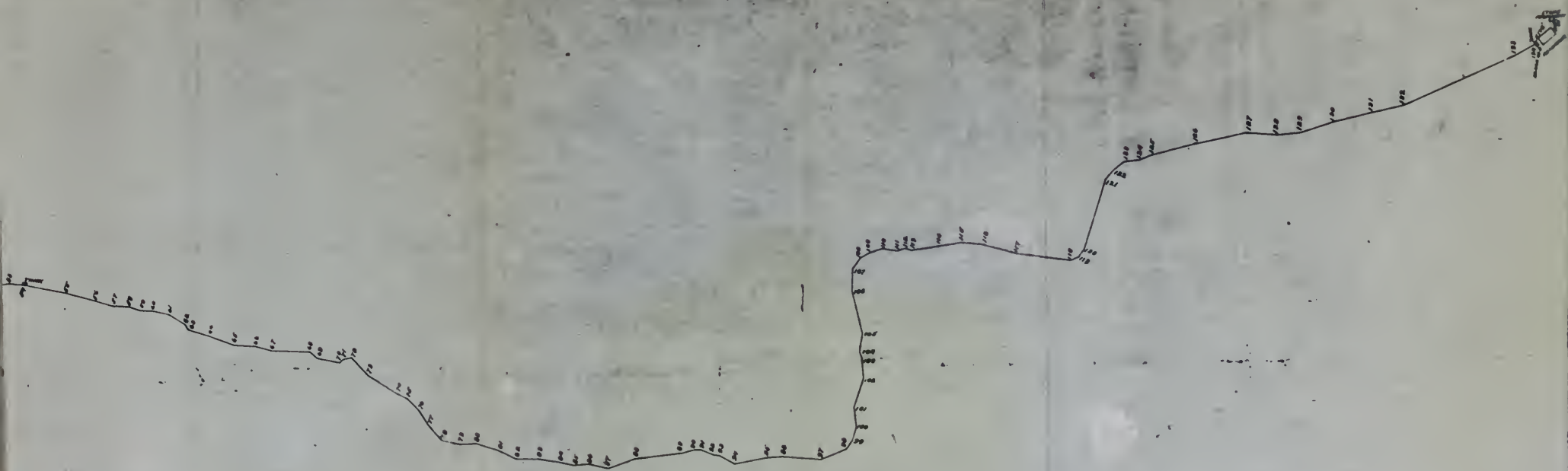


END VIEW OF TANK
Scale: 2 ft. to 1 inch

STATE OF UTAH }
COUNTY OF KANE }
I, Hyman K. Howell,
to make the survey by B. F. SAUNDERS
reservoir described as follows: Beginning
place is high 2 ft. 6 in. above sea level
and identical with the outlet of a spring
and continuing to Station 14, a total
of the reservoir whence a sandstone
was made by him as Surveyor of the San
day of Sept. 1903 and ending on the 12
accuracy represents a proper grade
a level line, which is the proposed and
represented upon this map and by the
or stream bed is used for the said p

Sworn and subscribed to before me this

I, B. F. SAUNDERS do hereby certify
the accompanying affidavit is the
of the said pipe line and reservoir
accompanying field notes was made
reservoir as represented on this map
day of Sept. 1903 in the presence of
Beginning at station 1 of the pipe line
also a balance between the two
on the east side of the reservoir, beginning
beginning at station 1 of the reservoir, when
and that no lake or lake bed, stream or stream
and that this map has been prepared to be used
the benefit of sections 14 to 16 inclusive of the
culture laws, and for other purposes and for
the right of way herein described as for public

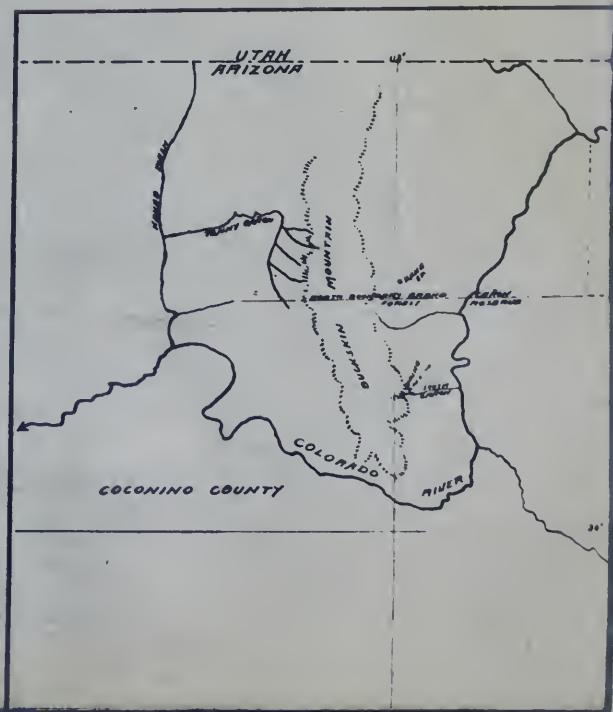
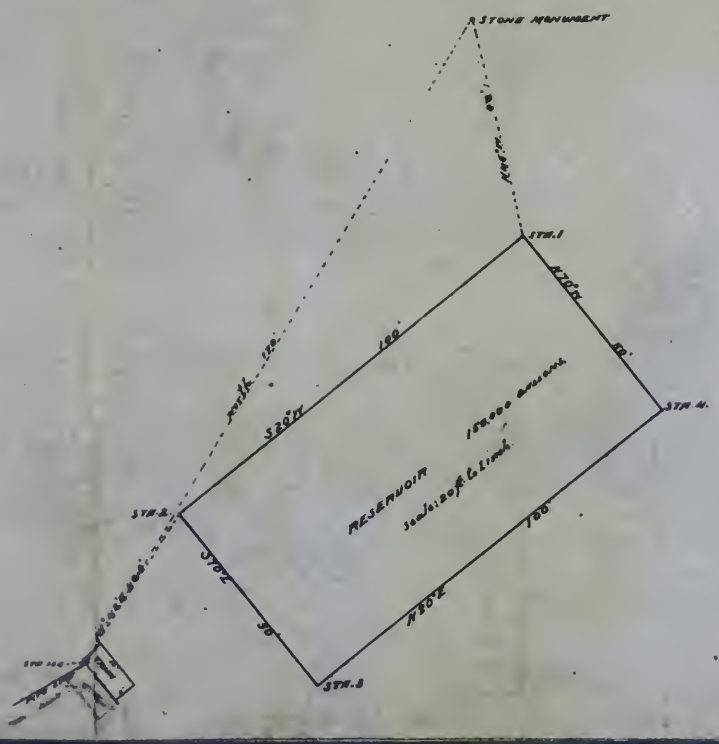


Surveyor's Certificate.

and being duly sworn says he is the surveyor employed by the U.S. that the survey of said O.R. Saunders pipeline and reservoir at station 1, of the pipe line, wherein a sandstone rock in place, also a basaltic lava flows in diam bears Sec. 30 or 30.6 ft. in South Canyon on the east side of the Buckhorn Mountains, length of 3,461 ft. and 5,124 ft. Also beginning at station 1, monument bears N 74° 17' 30" E. containing an area of 5000 sq. ft. of O.R. Saunders and under his authority, commencing on the 10th day of Sept. 1893, and that the survey of said pipe line and reservoir for the flow of water in the pipe line, and accurately represents the line of the said reservoir, and that such survey is accurately accompanied by field notes, and that no lake or lake bed, stream, pipe line and reservoir except as shown on this map.

day of March 1904
 Surveyor
 Notary Public.

Applicants Certificate.
 That I am the applicant; that Henry K. Munday who subscribed for the survey employed to make the survey by me, that the survey as accurately represented on this map and by the notes under my authority; that the said pipe line and reservoir, as shown by said field notes was completed by me on the 10th day of Sept. 1893, and that the survey of said pipe line and reservoir for the flow of water in the pipe line, and accurately represents the line of the said reservoir, and that such survey is accurately accompanied by field notes, and that no lake or lake bed, stream, pipe line and reservoir except as shown on this map.



N 70° 34' N 30 57 2 ft. to U.S.L.M. No. 3.



Survey N° 2141.

Prescott Land District.

Warm Springs Mining District.

Surveyed Sept. 2, 1905.

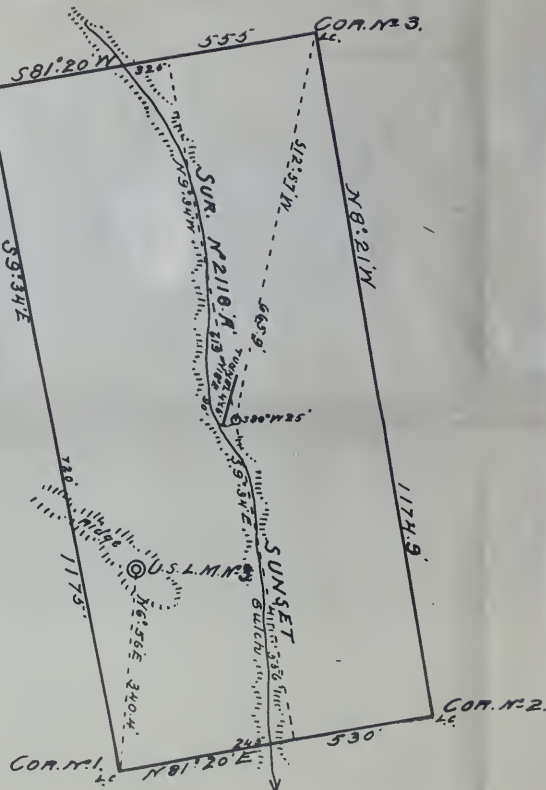
By John J. Breckon

U.S. Dep. Min. Surveyor.

Scale: 200 ft. to 1 inch

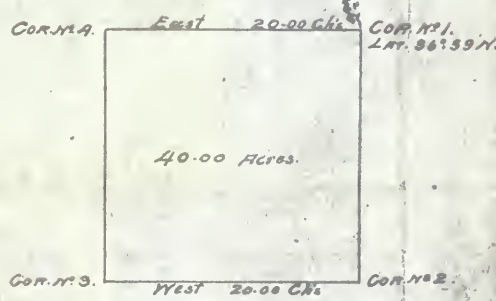


Scale: 200 ft. to 1 inch.



1876
JUN 18 1906
P. H. A. Survey, Utah

N



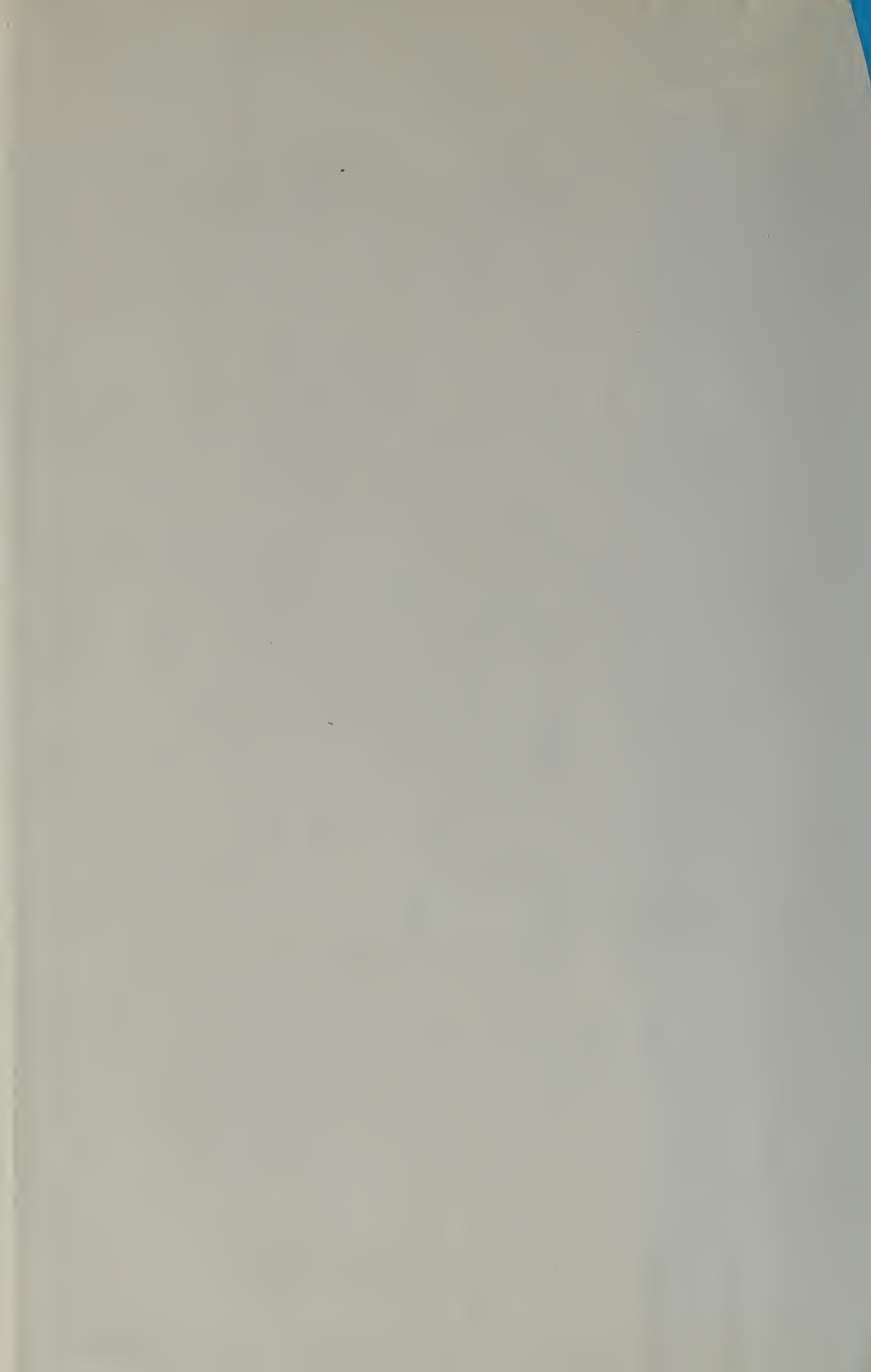
I hereby certify that this map correctly represents the Jacobs Pools trust applied for by B. F. SAUNDERS, as actually surveyed by me May 28 1906. Situated on unsurveyed land, in HOUSE ROCK valley on the east side of Buckskin Mountain, in Coconino County, ARIZONA TERRITORY.

From Cor. No. 1, which is a cedar post 4 ft. long, 4 ins. sq. set 1 1/2 ft. in the ground and mound of stone 3 ft. base, 2 ft. high, marked Cor. No. 1, N.E. cor. the S.E. cor. of stone house bears N 14° 15' W 3.50 Miles. Jacobs Pools Spring bears N 75° 00' W 3.774 Miles. thence South 20.00 Chains to Cor. No. 2, a cedar post 4 ft. long, 4 ins. sq. set 1 1/2 ft. in the ground and mound of stone, marked "Cor. No. 2, S.E. cor." thence West 20.00 Chains to Cor. No. 3, a cedar post 4 ft. long, 4 ins. sq. set 1 1/2 ft. in the ground and mound of stone, marked "Cor. No. 3, S.W. cor." thence North 20.00 Chains to Cor. No. 4, marked "Cor. No. 4, N.W. cor." thence East 20.00 Chains to Cor. No. 1. The place of beginning.

Variation 15° East. Scale: 100 ft. to 1 inch.

SALT LAKE CITY, UTAH
June 18 1906.

John J. Buckens
U.S. Dep. Min. Surveyor





I hereby certify that this map correctly represents the KANE SPRINGS HORSE TRACT applied for by B.F. SAUNDERS, as actually surveyed by me Feb. 14-1904, situated on unsurveyed land in HOUSE ROCK VALLEY at the mouth of KANE CANYON on the east side of the BUCARIN MOUNTAINS, COCONINO COUNTY, ARIZONA TERRITORY.

From Cor. N. 1, which is a cedar post 4 ft. long, 4 ins. Sq. set 1 ft. in the ground and mound of stone 5 ft. base, 2 ft. high, marked Cor. N. 1 SW. cor. the S.E. cor. of stone house a 24 ft. base, N 26° 30' E 345 ft. thence East 1320 ft. a pine post 4 ft. long, 4 ins. Sq. set 1 ft. in the ground and mound of stone, marked 'Cor. N. 2 S.E. cor.' thence North 120 ft. to Cor. N. 3 a cedar post 4 ft. long, 4 ins. Sq. set 1 ft. in the ground and mound of stone, marked N.E. cor. Cor. N. 3, thence West 120 ft. to Cor. N. 4, a cedar post 4 ft. long, 4 ins. Sq. set 1 ft. in the ground and mound of stone, marked 'Cor. N. 4 N.W. cor.' thence South 1320 ft. to Cor. N. 1 the place of beginning, containing an area of 40 Acres. Variation 15° E.

John J. Bushon
U.S. Deputy Min. Surveyor

SALT LAKE CITY UTAH
March 26 1904



Government
Exhibit No 13
for Identification
(T.H.S.)

Inv. Ex 13 in U.S. & Saunders
Admitted & Filed Jan 15, 1910
Hazelbury, Blah

FOREST SERVICE U.S. DEPT. OF AGRICULTURE
1910

KAIBAB NATIONAL FOREST ARIZONA

GILA AND SALT RIVER MERIDIAN AND I

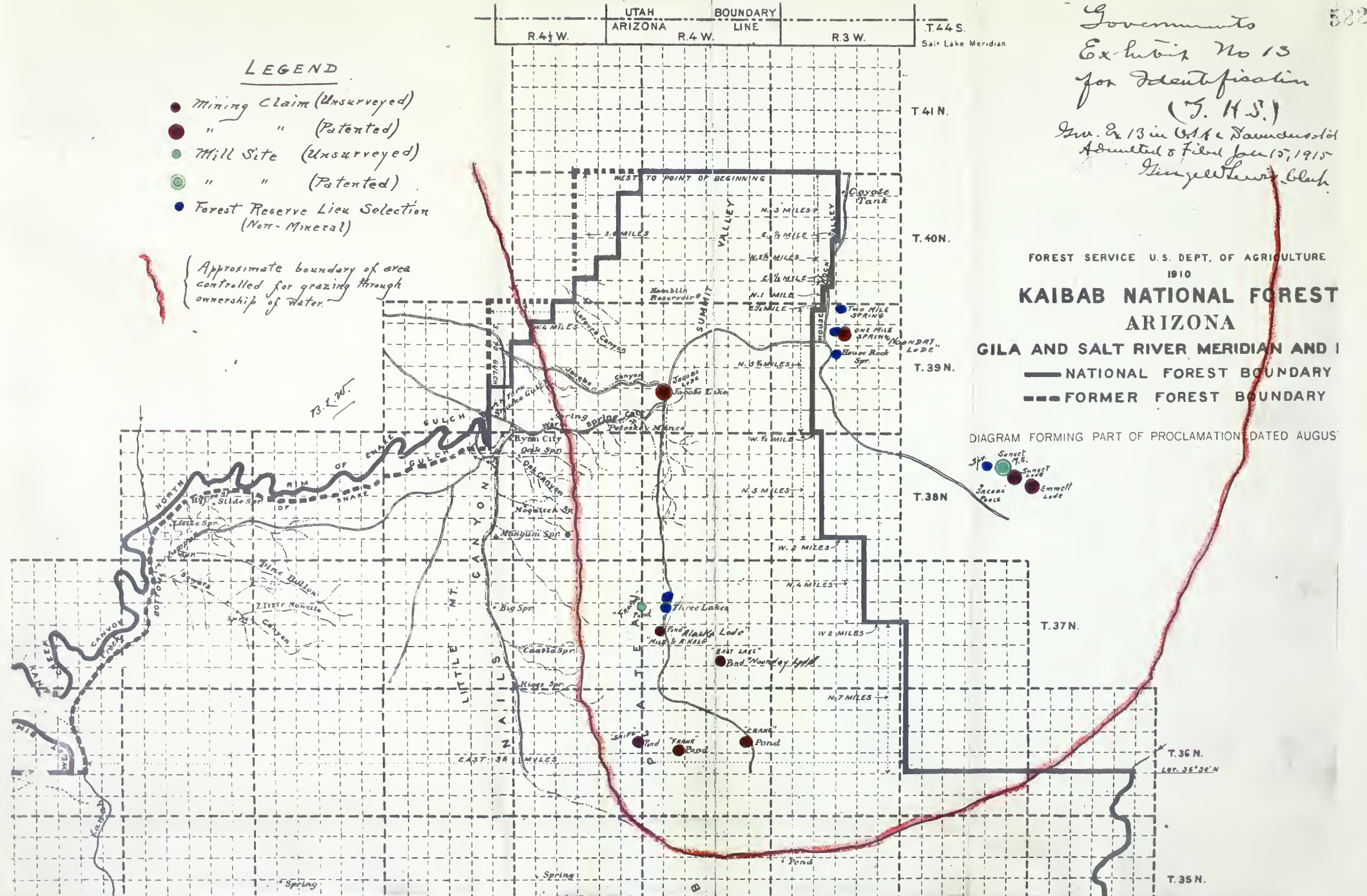
— NATIONAL FOREST BOUNDARY
--- FORMER FOREST BOUNDARY

DIAGRAM FORMING PART OF PROCLAMATION DATED AUGUS

LEGEND

- Mining Claim (Unsurveyed)
- " " (Patented)
- Mill Site (Unsurveyed)
- " " (Patented)
- Forest Reserve Lieu Selection (Non-Mineral)

{ Approximate boundary of area controlled for grazing through ownership of water.





Government's Exhibit No. 13-A.

**KAIBAB NATIONAL FOREST
ARIZONA**

**BY THE PRESIDENT OF THE UNITED
STATES OF AMERICA**

A PROCLAMATION

WHEREAS an Executive Order dated July second, nineteen hundred and eight, directed that all of the Grand Canyon National Forest lying north of the Colorado River should constitute the Kaibab National Forest; and

WHEREAS it appears that the public good will be promoted by adding to the Kaibab National Forest certain lands within the Territory of Arizona which are in part covered with timber, and by eliminating from said Forest certain lands;

Now, therefore, I, WILLIAM H. TAFT, President of the United States of America, by virtue of the power in me vested by the Act of Congress approved June fourth, eighteen hundred and ninety-seven, entitled "An Act Making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-eight, and for other purposes," do proclaim that the boundaries of the Kaibab National Forest are hereby changed and that they are now as shown on the diagram forming a part hereof.

The withdrawal made by this proclamation shall, as to all lands which are at this date legally appropriated under the public land laws or reserved for any public purpose, be subject to and shall not in-

terfere with or defeat legal rights under such appropriation, nor prevent the use for such public purpose of lands so reserved, so long as such appropriation is legally maintained or such reservation remains in force.

This proclamation shall not prevent the settlement and entry of any lands heretofore opened to settlement and entry under the Act of Congress approved June eleventh, nineteen hundred and six, entitled "An Act To provide for the entry of Agricultural lands within forest reserves."

The lands hereby eliminated from the Kaibab National Forest which are not embraced in withdrawals for administrative sites for use in the management of the Forest, or in any other reservation or appropriation, shall be restored to the public domain and become subject to settlement under the general provisions of the homestead laws on such date and after such notice by publication as the Secretary of the Interior may prescribe, but shall not become subject to entry, filing, selection, or other form of appropriation until the expiration of thirty days from the date so fixed, except that on the same date as the lands eliminated become subject to settlement, the Territory of Arizona may, if the lands eliminated are subject to such selection, select as indemnity in the satisfaction of its common school grant, not to exceed two sections of land in each entire township restored, or one section in each fractional portion of a township where the restored area thereof exceeds five thousand (5,000) acres, and no person will be permitted to acquire or exercise any right whatever

under any settlement or occupancy begun prior to such date, and all such settlement or occupation is hereby forbidden.

It is not intended by this proclamation to modify the proclamations heretofore issued establishing the Grand Canyon National Game Preserve and the Grand Canyon National Monument, both of which include lands embraced in the boundaries of the Kaibab National Forest.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this 23d day of August, in the year of our Lord one thousand nine hundred and ten, and of the Independence of the United States the one hundred and thirty-fifth.

[Seal]

WM. H. TAFT.

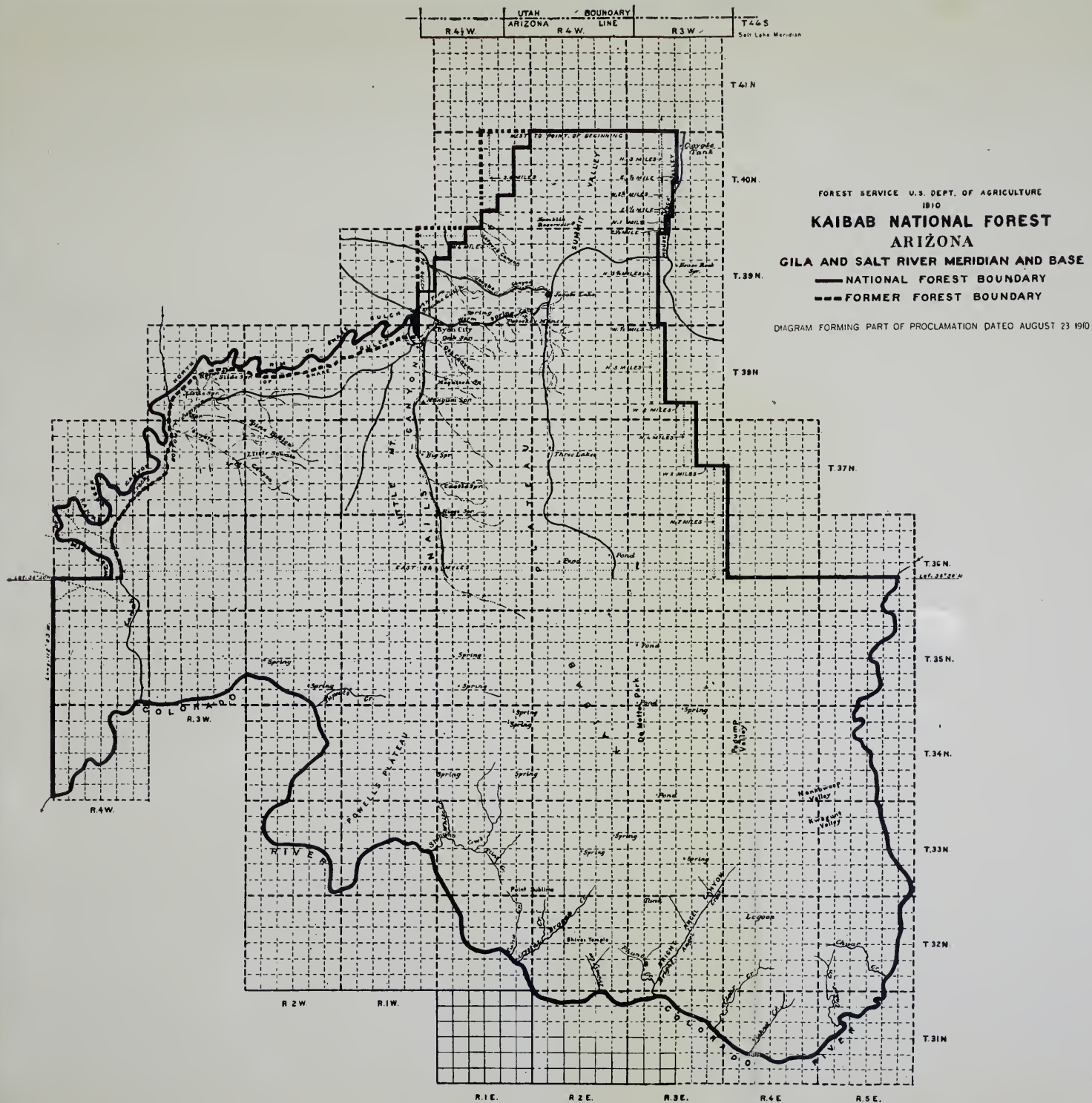
By the President:

HUNTINGTON WILSON,
Acting Secretary of State.

[No. 1079.]

[Endorsed]: Gov. Ex. 13-A in U. S. A. vs. Saunders et al. Admitted and Filed Jan. 15, 1915. George W. Lewis, Clerk.

No. 2894. U. S. Circuit Court of Appeals for the Ninth Circuit. Govt's. Exhibit 13-A. Filed Dec. 18, 1916. F. D. Monckton, Clerk.





Government's Exhibit No. 14.



[Endorsed]: Government's Exhibit No. 14 for Identification. Filed Dec. 12, 1913, with Deposition No. 28. George W. Lewis, Clerk. By R. E. L. Webb, Deputy.

No. 2894. U. S. Circuit Court of Appeals for the Ninth Circuit. Govt's. 14. Filed Dec. 18, 1916. F. D. Monckton, Clerk.

Government's Exhibit No. 15.



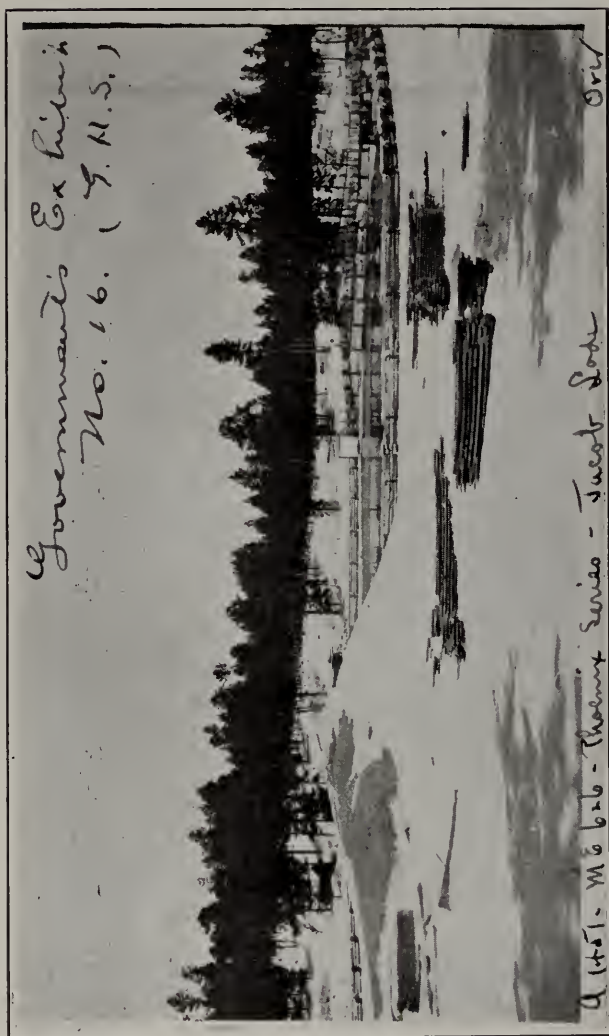
Looking northerly from point just south of south end line of Jacob lode showing lake and buildings on the claim.

[Endorsed]: Government's Exhibit No. 15. Filed Dec. 12, 1913, with Dep. #28. George W. Lewis, Clerk. By R. E. L. Webb, Deputy.

Gov. Ex. 15 in U. S. A. vs. Saunders et al. Admitted and Filed Jan. 12, 1915. George W. Lewis, Clerk.

No. 2894. U. S. Circuit Court of Appeals for the Ninth Circuit. Govt's. Ex. 15. Filed Dec. 18, 1916. F. D. Monckton, Clerk.

Government's Exhibit No. 16.



From Cor. #4 looking N. 35° W. showing Jacob Lake, corrals, sawdust pile in foreground at left of sawdust pile. Buckskin Mts., Ariz. Oct. 1908.

[Endorsed]: Government's Exhibit No. 16. Filed Dec. 12, 1913, with Dep. #28. George W. Lewis, Clerk. By. R. E. L. Webb, Deputy.

Gov. Ex. 16 in U. S. A. vs. Saunders et al. Admitted and Filed Jan. 12, 1915. George W. Lewis, Clerk. By. R. E. L. Webb, Deputy.

No. 2894. U. S. Circuit Court of Appeals for the Ninth Circuit. Govt's. Ex. 16. Filed Dec. 18, 1916. F. D. Monckton, Clerk.

Government's Exhibit No. 17.

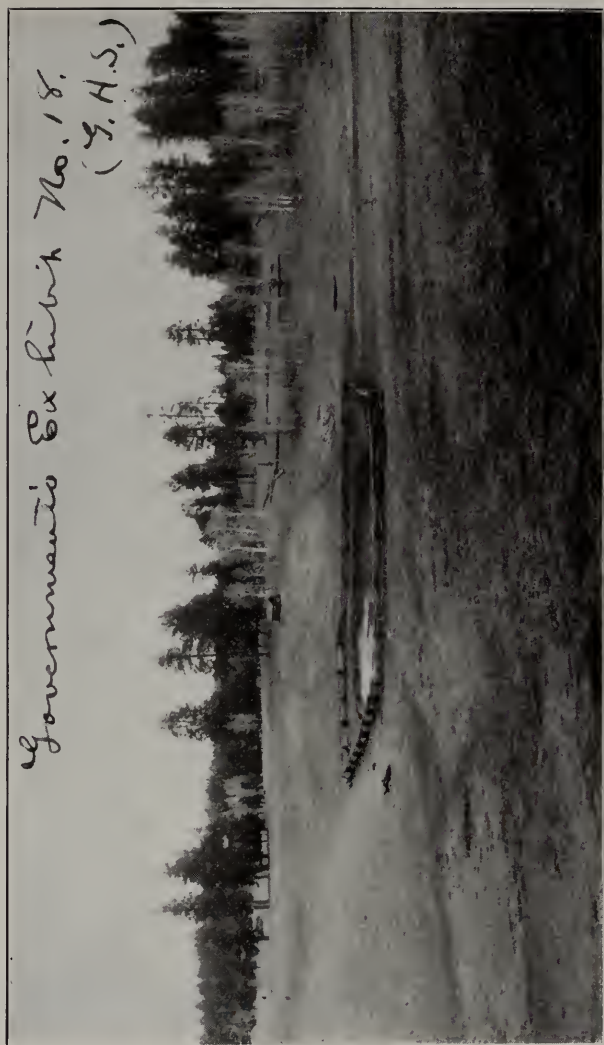
A 1451-ME 626-Phoenix Series - Jacob Lodge Over

Caved shaft just north of sawmill and outside of fence about lake.
The other shaft is located at right of picture and covered by water.

[Endorsed]: Government's Exhibit No. 17. Filed Dec. 12, 1913, with Dep. #28. George W. Lewis, Clerk. By R. E. L. Webb, Deputy.

Gov. Ex. 17 in U. S. A. vs. Saunders et al. Admitted and Filed Jan. 12, 1915. George W. Lewis, Clerk.

No. 2894. U. S. Circuit Court of Appeals for the Ninth Circuit. Govt's. Exhibit No. 17. Filed Dec. 18, 1916. F. D. Monckton, Clerk.

Government's Exhibit No. 18.

[Endorsed]: Government's Exhibit No. 18. Filed Dec. 12, 1913, with Dep. #28. George W. Lewis, Clerk. By. R. E. L. Webb, Deputy.

Gov. Ex. 18 in U. S. A. vs. Saunders et al. Admitted and Filed Jan. 12, 1915. George W. Lewis, Clerk.

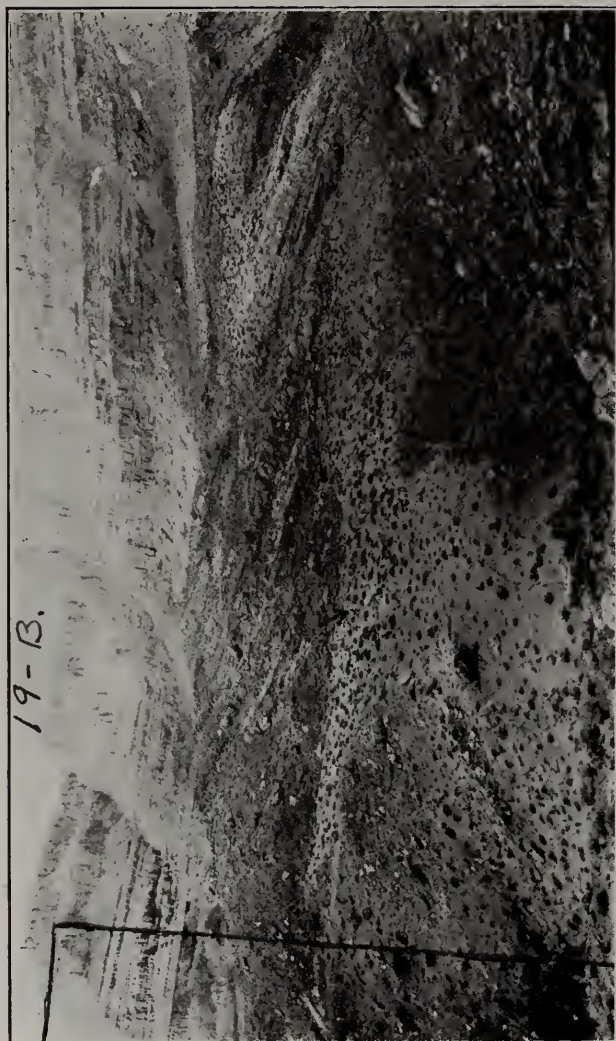
No. 2894. U. S. Circuit Court of Appeals for the Ninth Circuit. Govt's. Exhibit 18. Filed Dec. 18, 1916. F. D. Monckton, Clerk.

Government's Exhibit No. 19-A.

[Endorsed]: Government's Exhibit 19-A. Filed Dec. 12, 1913, with Dep. #28. George W. Lewis, Clerk. By R. E. L. Webb, Deputy.

Gov. Ex. 19-A in U. S. A. vs. Saunders et al. Admitted and Filed Jan. 12, 1915. George W. Lewis, Clerk.

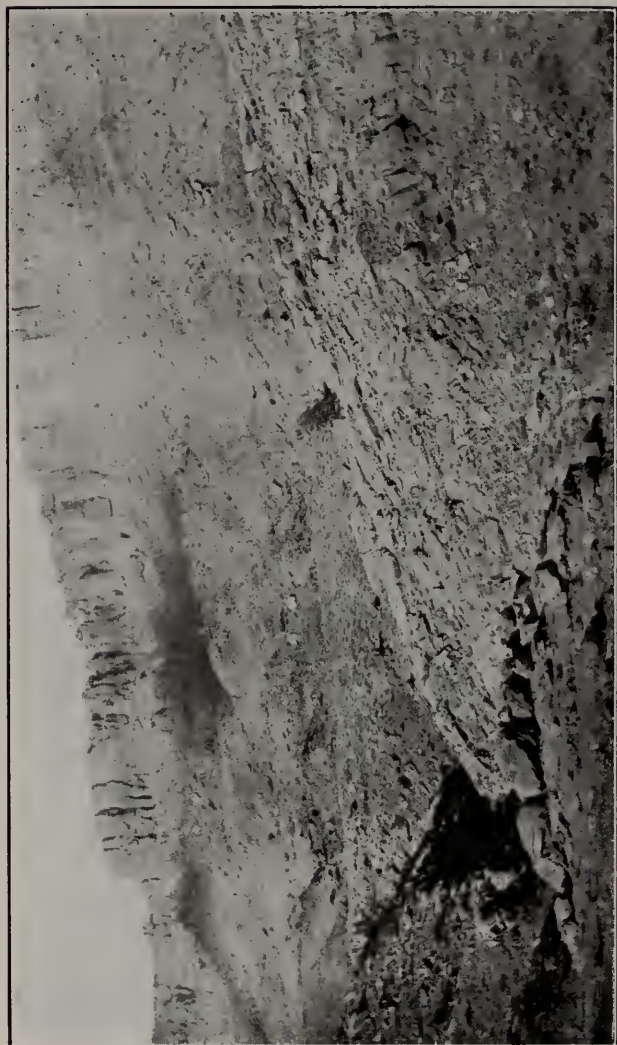
No. 2894. U. S. Circuit Court of Appeals for the Ninth Circuit. Govt's. Exhibit 19-A. Filed Dec. 18, 1916. F. D. Monckton, Clerk.

Government's Exhibit No. 19-B.

[Endorsed]: Government's Exhibit No. 19-B. Filed Dec. 12, 1913, with Dep. #28. George W. Lewis, Clerk. By R. E. L. Webb, Deputy.

Gov. Ex. 19-B in U. S. A. vs. Saunders et al. Admitted and Filed Jan. 12, 1915. George W. Lewis, Clerk.

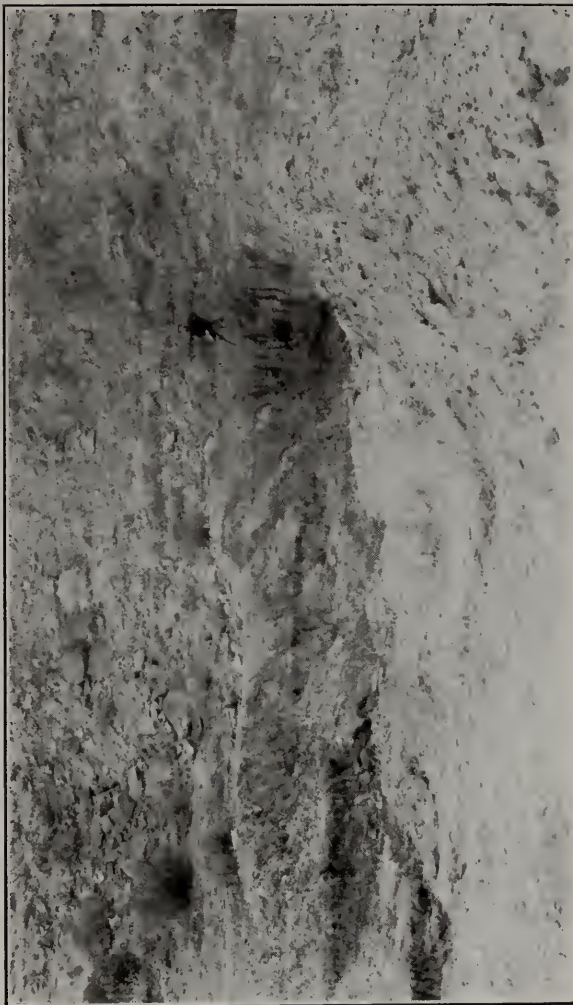
No. 2894. U. S. Circuit Court of Appeals for the Ninth Circuit. Govt's. Exhibit No. 19-B. Filed Dec. 18, 1916. F. D. Monckton, Clerk.

Government's Exhibit No. 20.

[Endorsed]: Government's Exhibit No. 20. Filed Dec. 12, 1913, with Dep. #28. George W. Lewis, Clerk. By R. E. L. Webb, Deputy.

Gov. Ex. 20 in U. S. A. vs. Saunders et al. Admitted and Filed Jan. 12, 1915. George W. Lewis, Clerk.

No. 2894. U. S. Circuit Court of Appeals for the Ninth Circuit. Govt's. Exhibit 20. Filed Dec. 18, 1916. F. D. Monckton, Clerk.

Government's Exhibit No. 21.

[Endorsed]: Government's Exhibit No. 21. Filed Dec. 12, 1913, with Dep. #28. George W. Lewis, Clerk. By R. E. L. Webb, Deputy.

Gov. Ex. 21 in U. S. A. vs. Saunders et al. Admitted and Filed Jan. 12, 1915. George W. Lewis, Clerk.

No. 2894. U. S. Circuit Court of Appeals for the Ninth Circuit. Govt's. Exhibit 21. Filed Dec. 18, 1916. F. D. Monckton, Clerk.

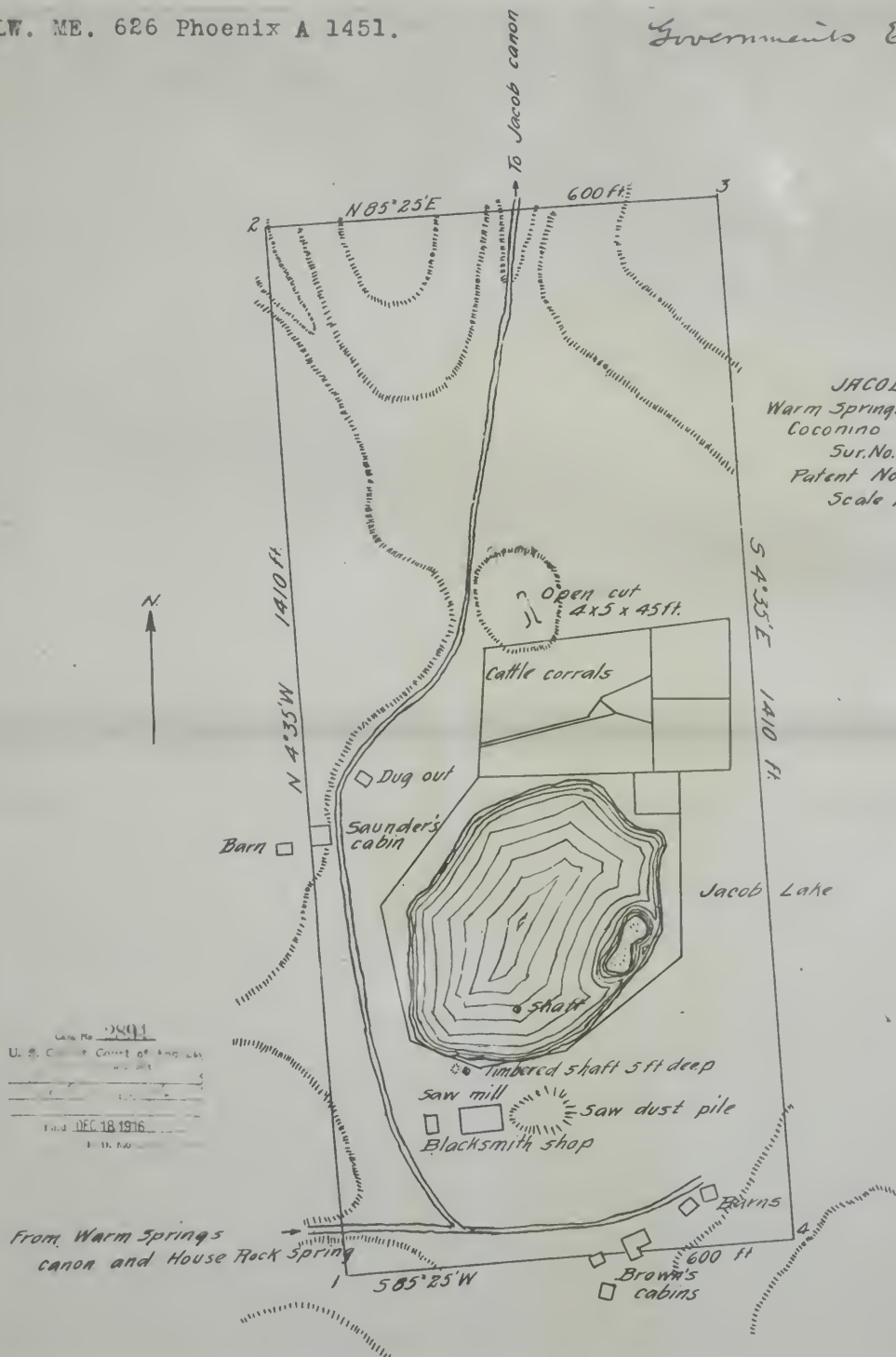
Government's Exhibit No. 23.

Cut No. 1 at north side of Jacob Lake.

[Endorsed]: Government's Exhibit No. 23. (G. H. S.) Filed Dec. 12, 1913, with Dep. #28. George W. Lewis, Clerk. By R. E. L. Webb, Deputy.

Gov. Ex. 23 (G. H. S.) in U. S. A. vs. Saunders et al. Admitted and Filed Jan. 12, 1915. George W. Lewis, Clerk.

No. 2894. U. S. Circuit Court of Appeals for the Ninth Circuit. Govt's. Exhibit 23. (G. H. S.) Filed Dec. 18, 1916. F. D. Monckton, Clerk.



Government's Exhibit No. 25.



Saunders cabin and barn. West side line of Jacob Lode indicated by dotted line.

[Endorsed]: Government's Exhibit No. 25.
(G. H. S.) Filed Dec. 12, 1913, with Dep. #28.
George W. Lewis, Clerk. By R. E. L. Webb, Deputy.

Gov. Ex. 25 (G. H. S.) in U. S. A. vs. Saunders
et al. Admitted and Filed Jan. 12, 1915. George W.
Lewis, Clerk.

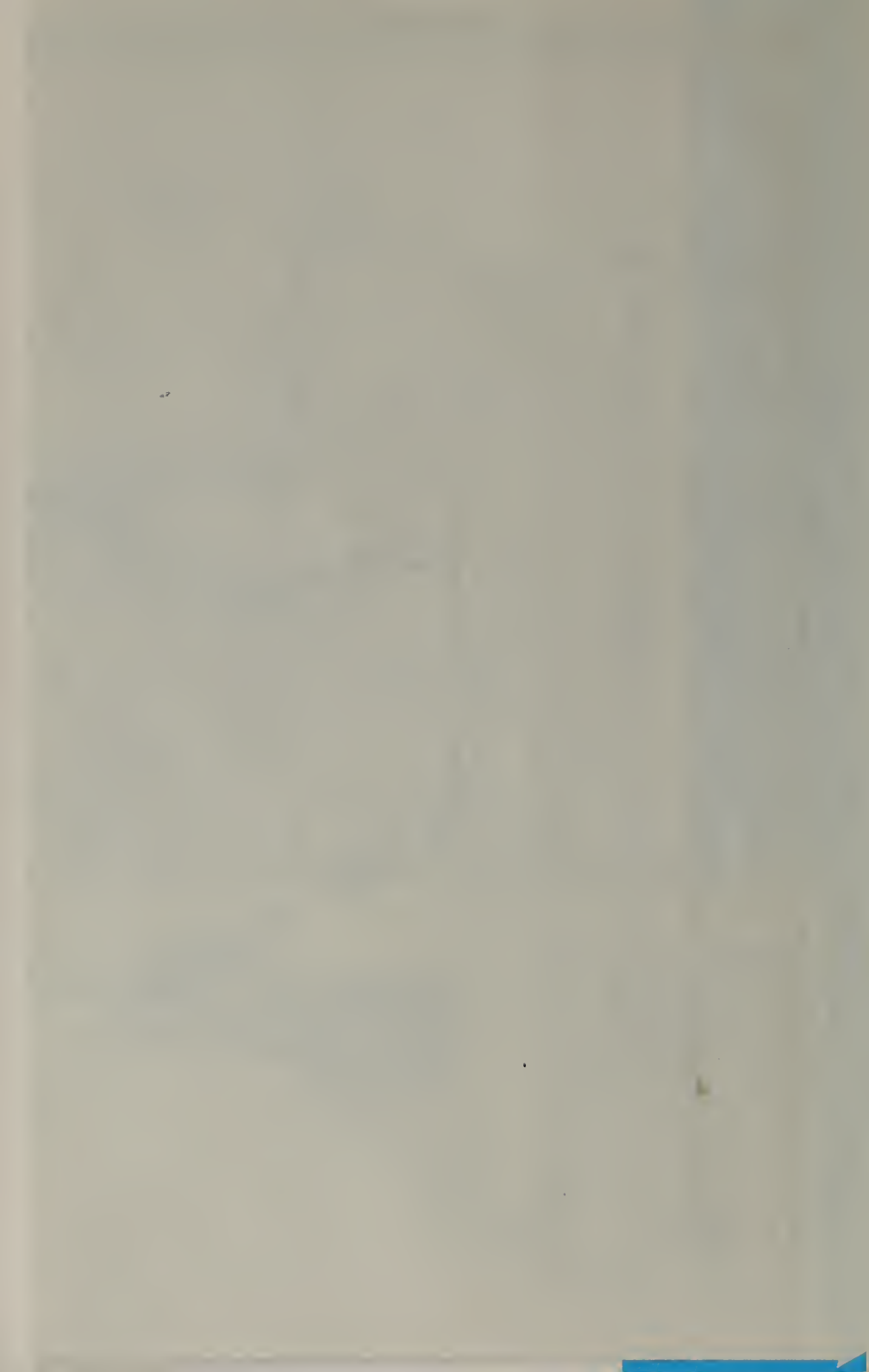
No. 2894. U. S. Circuit Court of Appeals for the
Ninth Circuit. Govt's. Exhibit 25. (G. H. S.)
Filed Dec. 18, 1916. F. D. Monckton, Clerk.

Government's Exhibit No. 26.



[Endorsed] : Government's Exhibit No. 26. Filed Dec. 12, 1913, with Dep. #28. George W. Lewis, Clerk. By R. E. L. Webb, Deputy.

No. 2894. U. S. Circuit Court of Appeals for the Ninth Circuit. Govt's. Exhibit 26. Filed Dec. 18, 1916. F. D. Monckton, Clerk.



Government's Exhibit No. 50-P.



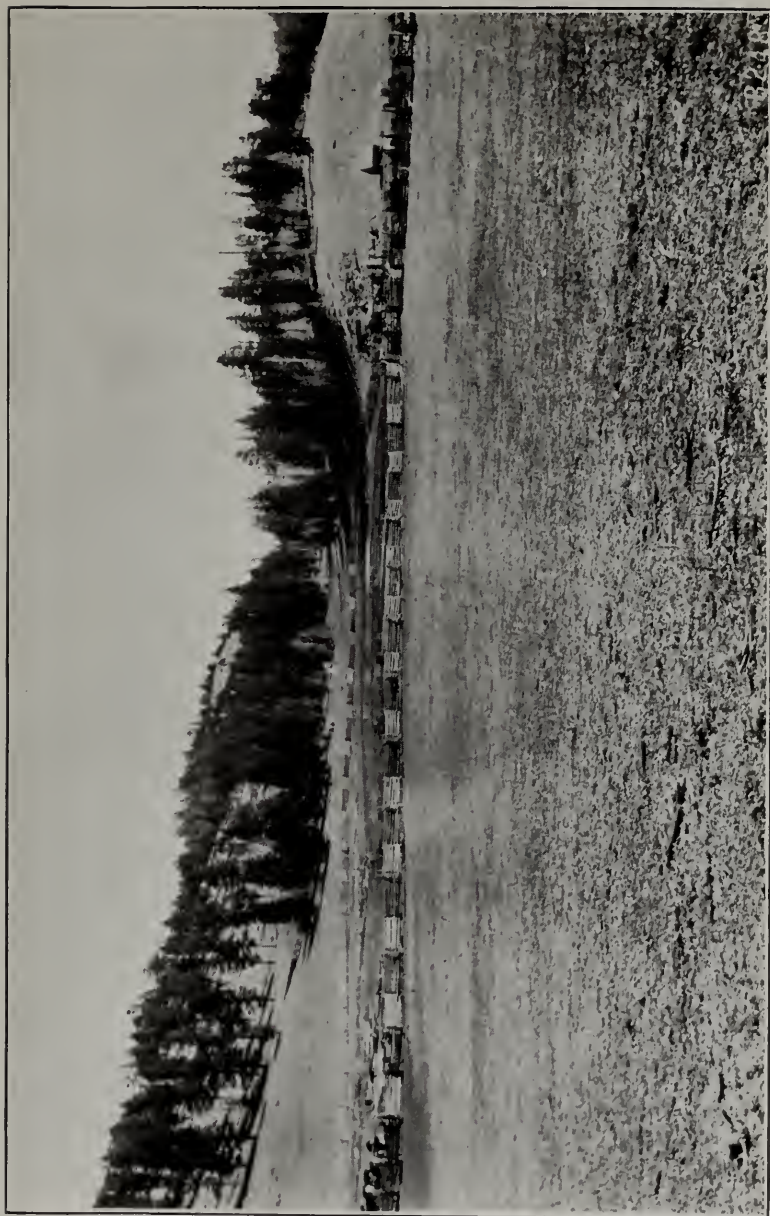
East Lake ("Noonday" claim, unpatented). Taken from point about 150 ft. NE. of lake; camera pointing SW.

[Endorsed]: Gov. Ex. 50-P. Filed Dec. 12, 1913, with Deposition #28. George W. Lewis, Clerk. By R. E. L. Webb, Deputy.

Gov. Ex. 50-P in U. S. A. vs. Saunders et al. Admitted and Filed Jan. 15, 1915. George W. Lewis, Clerk.

No. 2894. U. S. Circuit Court of Appeals for the Ninth Circuit. Govt's. Exhibit 50-P. Filed Dec. 18, 1916. F. D. Monckton, Clerk.

Government's Exhibit No. 51-P.



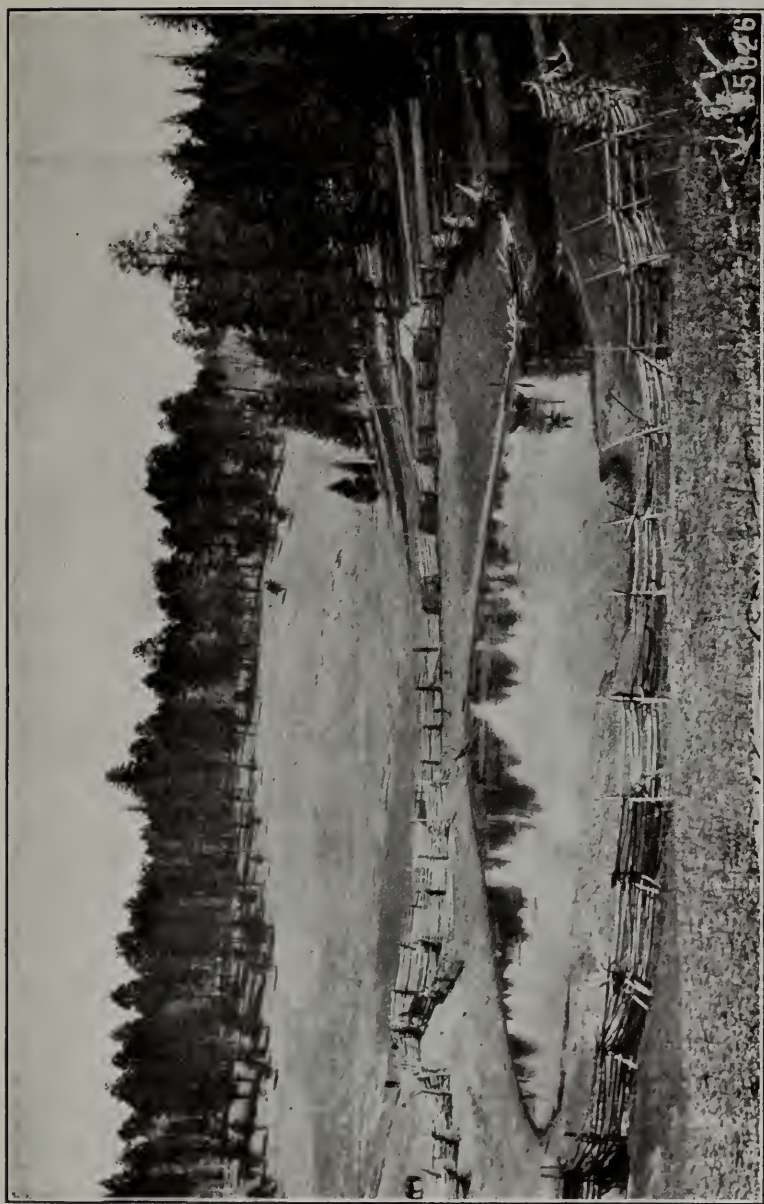
Crater Lake, taken from point about 500 ft. west of lake; camera pointing SE.

[Endorsed]: Gov. Ex. 51-P. Filed Dec. 12 1913, with Deposition #28. George W. Lewis, Clerk. By R. E. L. Webb, Deputy.

Gov. Ex. 51-P in U. S. A. vs. Saunders et al. Admitted and Filed Jan. 15, 1915. George W. Lewis, Clerk.

No. 2894. U. S. Circuit Court of Appeals for the Ninth Circuit. Govt's. Exhibit 51-P. Filed Dec. 18, 1916. F. D. Monckton, Clerk.

Government's Exhibit No. 52-P.



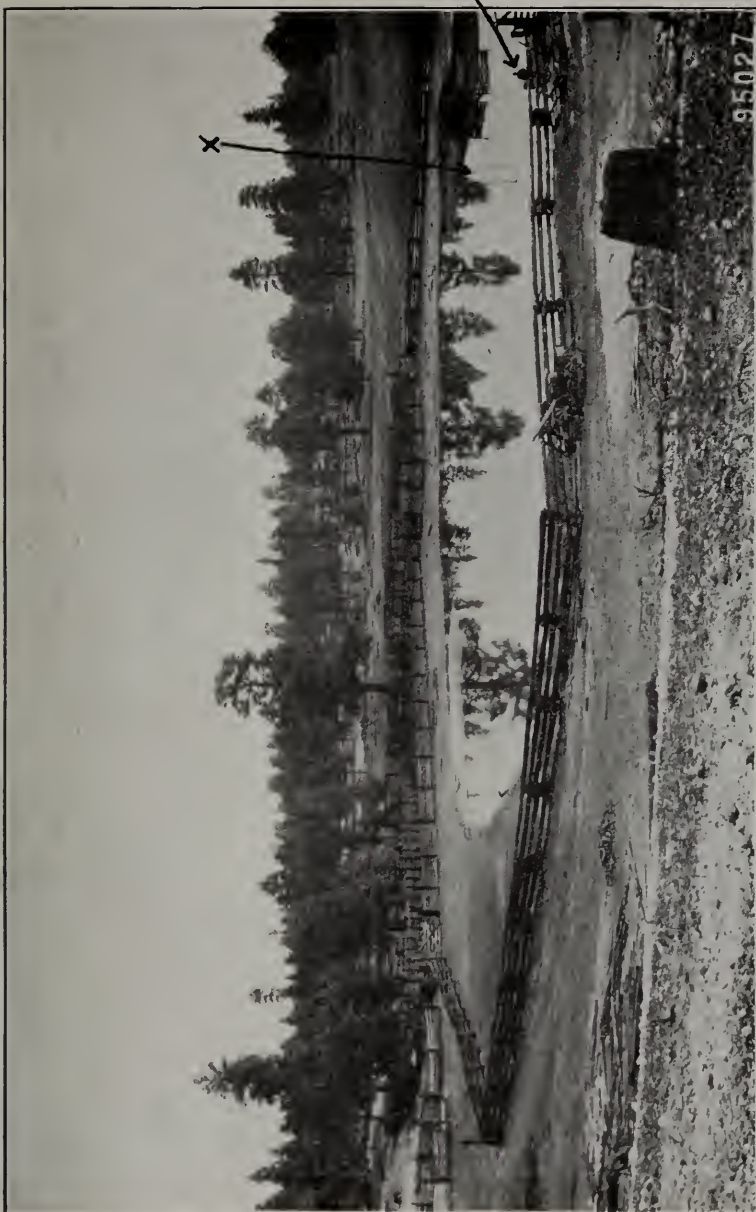
Snipe lake, camera pointing East.

[Endorsed]: Gov. Ex. 52-P. Filed Dec. 12 1913, with Dep. #28. George W. Lewis, Clerk. By R. E. L. Webb, Deputy.

Gov. Ex. 52-P in U. S. A. vs. Saunders et al. Admitted and Filed Jan. 15, 1915. George W. Lewis, Clerk.

No. 2894. U. S. Circuit Court of Appeals for the Ninth Circuit. Govt's. Exhibit 52-P. Filed Dec. 18, 1916. F. D. Monckton, Clerk.

Government's Exhibit No. 53-P.



Jacob's Lake. Photo taken from near Cor. 1-1923 (Jacob's Lode) camera pointing NE, diagonally across claim.

x Indicates old frame work, in the lake at the location of "Shaft No. 2" mentioned in field-notes of M. S. 1923.

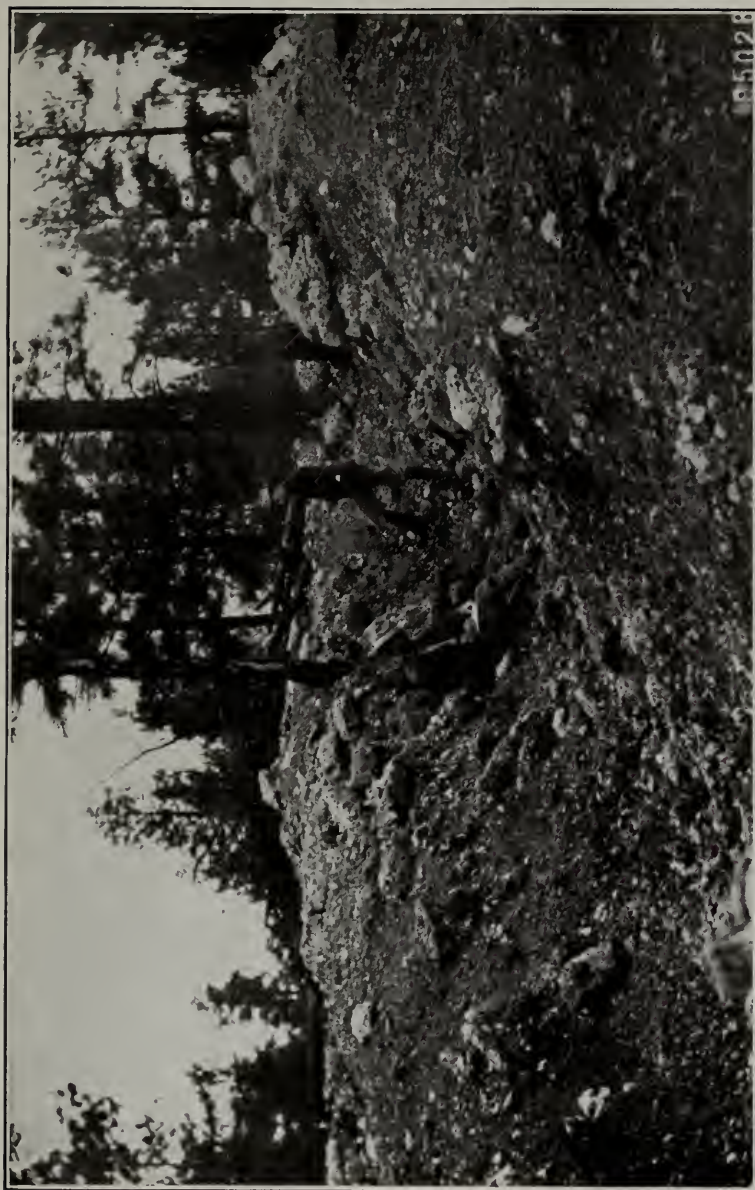
y Indicates Mr. T. C. Hoyt at remains of pit or well, at edge of lake.

[Endorsed]: Gov. Ex. 53-P. Filed Dec. 12 1913, with Deposition #28. George W. Lewis, Clerk. By R. E. L. Webb, Deputy.

Gov. Ex. 53-P in U. S. A. vs. Saunders et al. Admitted and Filed Jan. 15, 1915. George W. Lewis, Clerk.

No. 2894. U. S. Circuit Court of Appeals for the Ninth Circuit. Govt's. Exhibit 53-P. Filed Dec. 18, 1916. F. D. Monckton, Clerk.

Government's Exhibit No. 54-P.



Location—(discovery) cut on the Jacob's Lode claim, M. S. 1923. Camera at mouth, pointing along the centre of cut.

[Endorsed]: Gov. Ex. 54-P. Filed Dec. 12 1913, with Dep. #20. George W. Lewis, Clerk. By R. E. L. Webb, Deputy.

Gov. Ex. 54-P in U. S. A. vs. Saunders et al. Admitted and Filed Jan. 15, 1915. George W. Lewis, Clerk.

No. 2894. U. S. Circuit Court of Appeals for the Ninth Circuit. Govt's. Exhibit 54-P. Filed Dec. 18, 1916. F. D. Monckton, Clerk.

Government's Exhibit No. 55-P.

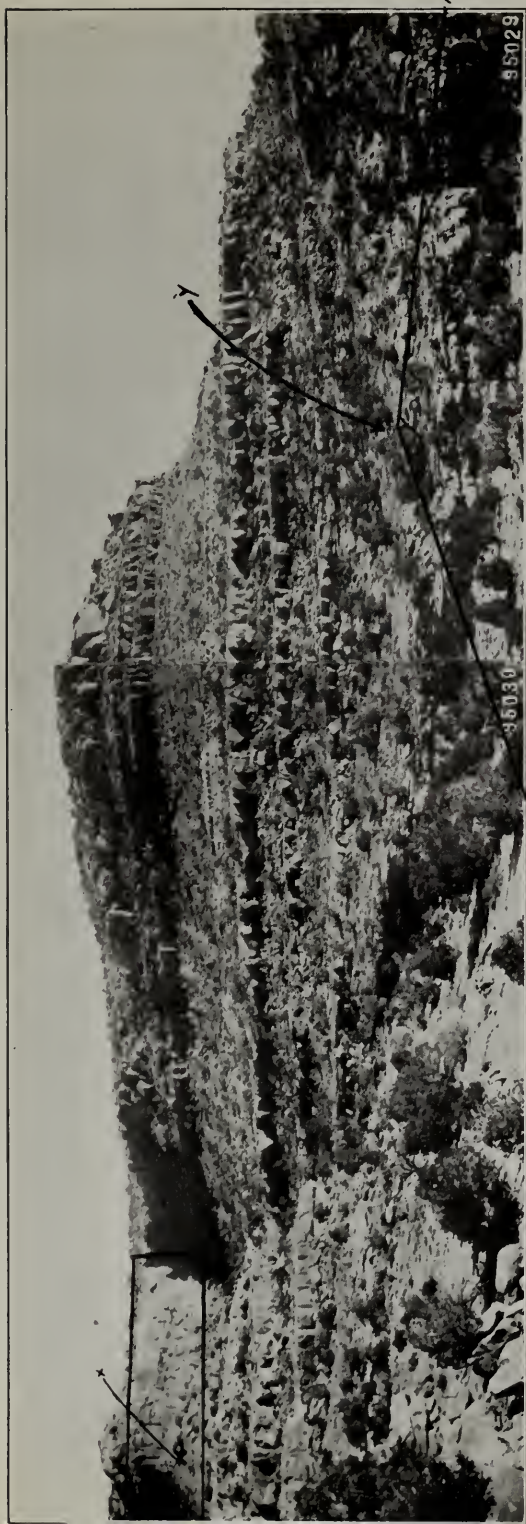


Open cut and mouth of tunnel (x) on Emmett Lode claim. Camera pointing north.
y Indicates Mr. W. L. Walker standing at face of open cut.

[Endorsed]: Gov. Ex. 55-P. Filed Dec. 12, 1913, with Deposition #28. George W. Lewis, Clerk. By R. E. L. Webb, Deputy.

Gov. Ex. 55-P in U. S. A. vs. Saunders et al. Admitted and Filed Jan. 15, 1915. George W. Lewis, Clerk.

No. 2894. U. S. Circuit Court of Appeals for the Ninth Circuit. Govt's Exhibit 55-P. Filed Dec. 18, 1916. F. D. Monekton, Clerk.



Showing character of the land in the Noonday Lode (patented) and part of the adjacent "One-mile" lieu selection 4003, (Phoenix 09301).

x indicates U. S. L. M. #5, within the Noonday claim; exterior lines indicate approximate boundary lines of Noonday claim, M. S. 2140.

y indicates Mr. W. L. Walker (holding two sheets of white paper, at arm's-length) at the SE. corner of the "One-mile" lieu selection tract.

Line YA indicates approximate south boundary line of the "One-mile" lieu selection tract.

Line YB indicates approximate east boundary line of the "One-mile" lieu selection tract.

[Endorsed]: Gov. Ex. 56-P in U. S. A. vs. Saunders et al. Admitted and Filed Jan. 15, 1915. George W. Lewis, Clerk.

No. 2894. U. S. Circuit Court of Appeals for the Ninth Circuit. Govt's. Exhibit 56-P. Filed Dec. 18, 1916. F. D. Monckton, Clerk.



